

§ 9.2.25 APPLICATION AND APPROVAL PROCESS

(A) PURPOSE AND INTENT. The purpose of this Section is to delineate the processing procedures in order for a request to be considered by the Village.

(B) APPLICATION.

(1) Applications may be made by the Board/Commission or by any person with record ownership interest in the affected property or by a tenant or agent with the owner's written authorization.

(C) PROCEDURE.

(1) The following steps shall be followed to process permit applications:

(D) PLANNING DIRECTOR ISSUED PERMITS. The following permits may be issued by the Planning Director. Any decision of the Planning Director may be appealed to the Board/Commission.

(1) Amendments To Conditions Of Approval, or Amendments to Conditions Of Approval associated with a permit or exemption, (Public Notice Required) may be granted when the

(a) Condition is no longer necessary,

(b) Condition impedes the ability to effectively utilize the real property,

(c) Circumstances necessitating the condition have changed since the conditions were imposed.

(2) Conditional Uses. Conditional uses, which have been publicly noticed with no adverse comments received by the deadline, may be approved by the designated Planning and Zoning Director.

(a) A conditional use shall be approved only if, in the circumstances of the particular case and under conditions imposed, the proposed use will be in conformance with the Master Plan and will not be injurious to adjacent property, the neighborhood or the community.

(b) Approval of a conditional use shall be made subject to specific conditions that are deemed necessary to protect the public safety, health, morals or general welfare of the Village.

(c) Any application for a conditional use for the same property cannot be filed within six (6) months from the date of the final action on a prior application.



(d) The public notice shall be in accordance with §9.2.25(F) Public Notice Regulations.

(3) Declaratory Ruling. Upon request, the Planning Director shall issue declaratory rulings as to the applicability of the Zoning Code to a proposed development, use, or activity. In determining whether or not a use is permitted by the Zoning Code, the similarity to, and compatibility with, other permissive or conditional uses in that zone shall be the determining factors.

(4) Home Occupation Permit. A home occupation is any use or activity clearly incidental and secondary to the use of a premise as a dwelling.

(a) Permit Required. It shall be unlawful for any person, either directly or indirectly to conduct any home occupation without a permit approved by the Planning Director or Commission.

(b) Procedure for issuance of permit.

1. Every person required to procure a permit under the provisions of this paragraph shall submit an original permit application to the Village. The application shall be in such form and require such information as the Planning Director shall determine.

2. Public Notice shall follow §9.2.25(F)

3. The permit application shall be accompanied by the first permit and business license fee

4. The Planning Director shall review all applications for permits.

5. If the application is for use of 500 square feet or less of the home and there is no adverse public comment, the Planning Director may approve the application.

6. If adverse public comment is received or the business utilizes an accessory building, the home occupation permit application shall be heard at a regularly scheduled public meeting of the Planning and Zoning Commission.

7. Whenever the Planning Director determines, in his or her discretion, that an application for permit is contrary to Village law, detrimental to the health, safety, or welfare of the Village or its inhabitants, or that the applicant is not acting in good faith, then the Planning Director shall recommend denial of the home occupation permit application to the Planning and Zoning Commission.

(c) Conditions of approval. If approved a permit for home occupation shall be subject to the following conditions:



1. It shall be conducted entirely within the residence or accessory buildings, by persons living at the residence as the primary business operator. Up to two additional employees may be employed by the business.

2. No more than five hundred (500) square feet of a residence and/or 1,000 square feet of an accessory building shall be used to conduct a home occupation.

a. §9.2.25(D)(4)(c)(2) shall take effect on January 8, 2014 for all new applications.

3. It shall not generate significant vehicular traffic or parking around the residence in addition to that normally associated with the use of the residence as a dwelling. Up to ten (10) business related trips per day shall be considered negligible.

4. Any heavy equipment, trucks or vehicles not normally associated with residential use which may be used directly or indirectly in the home occupation shall not be stored or parked on public streets or residential property.

a. With specific approval of the Planning and Zoning Commission, there shall be permitted no more than two (2) service vehicles, used in the conduct of the business, upon the premises at any one time. A service vehicle is a car, SUV, pick-up truck or panel van.

b. There shall be no idling vehicles, nor diesel trucks greater than one (1) ton permitted on the premises.

5. There shall be no change in the outside appearance of the residence or accessory building or other visible evidence of the conduct of the home occupation except that a small non-illuminated sign of not more than four (4) square feet that blends with the aesthetic quality of the neighborhood may be approved by permit.

6. Any sales shall be limited to products or services generated or provided by the residents and must not disrupt the residential nature of the neighborhood.

7. There shall be no storage of materials or displays of merchandise visible from outside the lot lines of the residence.

8. There shall be no storage of materials or products which are explosive, flammable, toxic or otherwise hazardous to persons living within the residence or to the public.



9. No activity shall be performed outside of the dwelling or accessory building which is not normally associated with the use of the residence as a dwelling.

10. The conduct of the business must not produce offensive noise, vibration, fumes, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare electrical interference or other objectionable effects beyond the exterior walls of the dwelling or accessory building.

11. The Planning and Zoning Commission may impose such other conditions as it deems reasonable under the circumstances and those conditions shall be recorded on the approved home occupation permit.

12. Upon request by the Planning Director, the permittee shall completely and fully cooperate with any investigation of any complaint or suspected Code violation, including allowing a complete on premises inspection by Village designated personnel.

(d) Duration and Renewal. A home occupation permit shall remain in effect and an Annual Renewal License form must be submitted by December 31 of each year.

1. The Home Occupations–permit fee may not be prorated for home occupations conducted for a portion of the year.

2. An Annual Renewal License form shall be filed on or before December 31 of each year. The Form shall be in such format as the Planning Director shall determine and shall be accompanied by the annual fees.

3. Renewal of each existing license is subject to approval of the Planning Director when no complaints or violations have been documented. Annual license renewals do not require public notice.

4. Permits which have received complaints or violations at any time during the year shall follow §9.2.25(E)(3) Home Occupation Revocation procedures.

(e) License Renewal Fee. The annual license renewal fee shall be fifteen dollars (\$15.00). The fee shall be in addition to the Business Registration required by State Law.

1. Any person who fails to make a timely renewal shall be subject to a late fee of ten dollars (\$10.00) per year. The late fee is in addition to any penalties which may be imposed for violation of this Section

(f) Duties of Permittee. Every home occupation permittee shall comply with all federal, state, county and municipal laws and regulations applicable to such permitted occupation and the failure to do so shall constitute



grounds for revocation. Each permittee shall post a current license on the premises where it is visible at all times.

(5) Home Occupation Permit – De Minimis

(a) The Planning Director may administratively approve such home occupation permit applications that meet the requirements of a De Minimis Home Occupation, a classification of home occupation activity that produces no visible or invisible effect at the property such as providing an internet service.

1. Public Notice shall follow § 9.2.25(F).

(b) A De Minimis home occupation permit may be approved to allow business activities within a residential property that comply with the following conditions.

1. It shall be conducted entirely within the residence or accessory buildings on the residential property and only by persons living at the residence.

2. No more than five hundred (500) square feet of a residence, and no accessory building shall be used to conduct a De Minimis home occupation.

a. §9.2.25(D)(5)(b)(2) shall take effect on January 8, 2014 for all new applications.

3. It shall not generate vehicular traffic or parking around the residence in addition to that normally associated with the use of the residence as a dwelling.

4. Any heavy equipment, trucks, or vehicles not normally associated with residential use that shall be used directly or indirectly in the home occupation shall not be stored or parked on public streets or residential property.

5. There shall be no change in the outside appearance of the residence or accessory building or other visible evidence of the conduct of the home occupation.

6. Any sales shall be limited to products or services generated or provided by the residents of the property and must not disrupt the residential nature of the neighborhood.

7. There shall be no storage of materials or displays of merchandise visible from outside the lot lines of the residence.

8. There shall be no storage of materials or products that are explosive, flammable, toxic, or otherwise hazardous to persons living within the residence or to the public.



9. No activity shall be performed outside of the dwelling or accessory buildings which is not normally associated with the use of the residence as a dwelling.

10. The conduct of the business shall not produce offensive noise, vibration, fumes, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, electrical interference or other objectionable effects beyond the exterior walls of the dwelling or accessory building.

11. Other conditions shall be imposed as deemed reasonable and necessary.

12. Every home occupation permittee shall comply with all federal, state, county, and municipal laws and regulations applicable to permitted occupations and the failure to do so shall constitute grounds for revocation. Each license shall be posted on the premises where it is visible at all times.

13. De Minimis home occupations shall not employ individuals other than the permittee and permittee family members who live and work on the premises.

14. All home occupations must abide by the regulations of the zone in which the home is located.

15. No signage shall be permitted.

16. Upon request by the Planning Director, the permittee shall completely and fully cooperate with any investigation of any complaint or suspected code violation, including allowing a complete on premises inspection by Village designated personnel.

(c) Duration and Renewal:

1. The De Minimis Home Occupations permit shall remain in effect and the fee may not be prorated for home occupations conducted for a portion of the year.

2. An Annual Renewal License form shall be filed on or before December 31 of each year. The Form shall be in such format as the Planning Director shall determine and shall be accompanied by the annual fees.

3. Renewal of each existing license is subject to approval of the Planning Director when no complaints or violations have been documented. Annual license renewals do not require public notice.



4. Permits which have received complaints or violations at any time during the year shall follow §9.2.25(E)(3) Home Occupation Revocation procedures.

(d) License renewal fee. The annual license renewal fee shall be fifteen dollars (\$15.00). The fee shall be in addition to the Business Registration required by State Law.

1. Any person who fails to make a timely renewal shall be subject to a late fee of ten dollars (\$10.00) per year. The late fee is in addition to any penalties which may be imposed for violation of this Section.

(6) **Minor Site Plan Amendments.** Physical modifications to commercial buildings or structures of less than twenty percent (20%) of the total floor area may be approved by the Planning Director. If the Planning Director determines the requested modification is significant, the request will be referred to the Commission/Board. Minor Site Plan Amendments shall be considered only one time in a calendar year.

(7) **Reconstruction Permits.** A Reconstruction Permit may be approved to allow for the reconstruction of a nonconforming building to the building's original configuration in the event that such building has been damaged or destroyed. The Planning Director may approve a reconstruction permit if the following findings can be made:

(a) The building's nonconformity was not the result of any deliberate action taken by the building's owner after the zoning regulation to which the building does not conform has become effective.

(b) The building was conforming to all applicable Codified Ordinances, regulations and statutes immediately prior to the enactment of the zoning Ordinance that rendered the building nonconforming.

(8) **Shared Parking Agreement.** A shared parking agreement shall be approved as to form and content by the Village Attorney, and approved by the Director/Commission/Board to allow businesses to share parking stalls when such uses individually, can not meet the off street parking regulations as set forth in §9.2.18, or when one or more businesses use the same building. The shared parking agreement shall be placed on file with the Village and recorded on the subject properties with the Bernalillo County Clerk.

(9) **Sidewalk Café Permits.** Public Notice Required. A Sidewalk Café Permit may be approved in the C-1, GD and VC zones if the project conforms with the following regulations, policies, guidelines, and design standards. The Planning Director shall consider the following in the determination:

(a) The width of the sidewalk where the café will be located.



(b) The design and relationship of the café to other existing or planned uses on a particular street.

(c) The amount of pedestrian use on the sidewalk and the impact of the café's location on potential pedestrian activity and the public health, safety, and welfare.

(d) In order to approve the Sidewalk Café Permit, after considering the criteria in § 9.2.25(D)(9) above, the Planning Director may make the following findings:

1. The location of a sidewalk café in a particular area will not adversely effect the neighborhood, and will implement the goals of the Master Plan.

2. The proposed use will not be detrimental to persons residing, visiting, or working in the area.

3. The proposed use will comply with all relevant regulations in the Village 2013 Codified Ordinances and all applicable building laws including state laws and regulations.

(e) A public liability insurance policy of at least one million dollars (\$1,000,000) shall be required before approval of a sidewalk café permit. Such liability insurance shall be provided in a form and an amount acceptable to the Village Attorney. The policy shall name the Village of Los Ranchos de Albuquerque as an additional insured and shall be maintained.

(f) The sidewalk café shall be permitted only in conjunction with an eating or drinking establishment that is operating on the contiguous adjacent private property.

(g) A sidewalk café must be accessible to the physically handicapped. The Building Official shall review sidewalk café permit applications in order to ensure compliance with the UBC for making buildings accessible to the physically

handicapped and any other state or local regulations which the Building Official enforces.

(h) All Sidewalk Café permits shall be for the duration of the continuous use of the eating or drinking establishment but shall be subject to revocation or modification by the Planning Director if it is determined that one or more of the findings and/or conditions of the permit have been violated or that a change of circumstances has occurred that warrants or requires such revocation or modification.

(10) Temporary Construction Permits. A Temporary Construction Permit may be approved in any zone for the construction of storage yards or temporary



construction project offices. The temporary use may be allowed for a period not to exceed one (1) year.

(a) All debris, storage of materials or equipment must be confined to an area that is fenced and locked after normal business hours.

(b) The Planning Director may impose such conditions as deemed necessary to mitigate the effects of the temporary use.

(11) Tract Real Estate Office Permits. A Tract Real Estate Office Permit may be approved for real estate offices, model homes and signs in connection therewith. The permit shall be approved for a period not to exceed one (1) year.

(12) Zoning Certification. Zoning Certification may be requested for a Zone history of a specific piece of property. If the subdivision of land impacts the property rights on a specific piece of property, the subdivision shall be so noted in the verification.

(13) Zoning Clearance. All business permit applications must receive a zoning clearance from the Planning Director prior to approval and commencement of business activities in the Village.

E. COMMISSION/BOARD ISSUED PERMITS. The following permits and any appeal of the Planning Director's decision may be approved by the Commission according to the Matrix, or considered by the Commission for approval and forwarded to the Board with a recommendation for approval.

(1) Bed and Breakfast Facilities

(a) Bed and Breakfast establishments are allowable in all zones of the Village with initially approved permit and license, providing the premise has access to city water and sewer or obtains a wastewater permit from the NMED stating the maximum flow rate on the parcel.

(b) Approval is by the Planning and Zoning Commission at a regularly scheduled hearing with public notice as per § 9.2.25(F).

1. Bed and Breakfast establishments must be operated by the owner of the home, living in residence. Up to two additional employees may be employed by the business.

2. It shall be conducted entirely within the residence or accessory buildings on the residential property.

3. Not more than four guestrooms may be utilized to provide lodging in other than the C-1, AC or VC Zone.

4. Parking for guests must be off street.



5. Meals may or may not be served.
 6. Noise must be mitigated according to §7.4.2. Nuisances, Misconduct and Common Offenses.
 7. One lighted sign not to exceed four (4) square feet is permitted on premises and must meet the Dark Skies provisions of §9.2.20.
 8. Bed and Breakfast establishments must have published rules of operation, approved by the Planning Director.
 9. Every permittee shall comply with all federal, state, county, and municipal laws and regulations applicable and the failure to do so shall constitute grounds for revocation. Each license shall be posted on the premises where it is visible at all times.
 10. Upon request by the Planning Director, the permittee shall completely and fully cooperate with any investigation of any complaint or suspected code violation, including allowing a complete on premises inspection by Village designated personnel.
 11. Bed and Breakfast permits shall be subject to such different and additional conditions as the Planning and Zoning Commission deems reasonable.
 12. Bed and Breakfast establishments shall be inspected annually by the Fire Department for fire safety.
- (c) Revocation procedure shall follow §9.2.25(E)(3) Home Occupation Revocation.
- (d) Bed and Breakfast establishments currently licensed under home occupation licenses shall receive a Bed and Breakfast license upon annual renewal.
- (e) Duration and Renewal:
1. The Bed and Breakfast permit remains in effect and may not be prorated for business conducted for a portion of the year.
 2. An Annual Renewal License form shall be filed on or before December 31 of each year. The Form shall be in such format as the Planning Director shall determine and shall be accompanied by the annual fees.



3. Renewal of each existing license is subject to approval of the Planning Director when no complaints or violations have been documented. Annual license renewals do not require public notice.

4. License renewal fee. The annual license renewal fee shall be fifteen dollars (\$15.00). The fee shall be in addition to the Business Registration required by State Law.

5. Any person who fails to make a timely renewal shall be subject to a late fee of ten dollars (\$10.00) per year. The late fee is in addition to any penalties, which may be imposed for violation of this ordinance.

(2) Conditional Use. When referred for action by recommendation of the Planning and Zoning Director, a conditional use shall be approved to allow conditional uses delineated in a zone if the following findings are made:

(a) A conditional use shall be approved only if, in the circumstances of the particular case and under conditions imposed, the proposed use will be in conformance with the Master Plan and will not be injurious to adjacent property, the neighborhood, or the community.

(b) Approval of a conditional use shall be made subject to specific conditions that are deemed necessary to protect the public safety, health, morals, or general welfare of the Village.

(c) An application for a conditional use for the same property cannot be filed within six (6) months from the date of the final action on a prior application.

(3) Home Occupation Revocation.

(a) Complaints of suspected violations may be made in writing at any time. Complaints must fully and completely state the nature of the violation.

(b) Upon receipt of written complain concerning a home occupation license, or any code violation, the Planning Director shall initiate a full investigation.

(c) If the investigation substantiates the complaint, the Planning Director shall schedule a hearing before the Planning and Zoning Commission at the next regularly scheduled meeting following Public Notice §9.2.25(F).

(d) The Planning and Zoning Commission will consider all presented testimony and evidence and make the decision to revoke the home occupation license or not according to adopted Rules for the Transaction of Business.



(e) Upon revocation of a home occupation permit, all activity associated with the occupation will cease and desist within seventy-two (72) hours of such decision.

(f) Appeals may be filed according to §9.2.25(H).

(4) Site Development Plan

(a) **Approval.** Approval of a Site Development Plan by the Commission and the Board of Trustees is required for major subdivisions; commercial subdivisions where all lots will be developed by one developer, new commercial construction and for commercial projects that modify an existing structure by twenty percent (20%) or more, except Tenant Improvement internal remodels, or add square footage to the total floor area; schools; museums; arenas; convention centers; and/or when required as a condition of approval for Conditional or Special Use Permits.

1. Public Notice and Hearing requirements as set forth in §9.2.25(F) Public Notice Regulations, below shall be followed.

(b) **Applications.** An applicant requesting use of a building, structure, or land requiring Site Development Plan approval must obtain and return a completed application for a Site Development Plan and all required components. The application shall be returned to the Planning Director, accompanied by the appropriate application fee.

1. The application for Site Development Plan shall include a document package with the following:

a. The application form as designed by the Planning and Zoning Department, which includes but is not limited to a Zone Classification and Permissive Uses, Character Area and proposed land use.

b. Grant/Warranty Deed or Letter of Agent. Verification of proof of ownership – Legal description.

c. Current property tax record from Bernalillo County Assessor.

d. Required Site Development elements of §9.2.25(E)(3) below.

(c) **Review Process.**



1. The applicant shall request and have scheduled a Sketch Plat review at which time the Commission will discuss the proposal and provide direction in the form of comments without formal action.

a. Amendments to previously approved Site Development Plans do not need a Sketch Plat Review.

2. After the Sketch Plat Review, the Planning Director shall schedule a hearing for preliminary approval before the Commission.

3. The Commission may set conditions and forward a recommendation to the Board of Trustees for final approval; or

4. Applications which do not receive a recommendation of approval from the Commission may submit a revised plan to the Commission for review; or

5. Applicants may appeal the Commission denial to the Board of Trustees according to §9.2.25(H)(2).

6. The final approval application for Site Development Plan shall be heard by the Board of Trustees when all requirements have been met.

(d) Grading and Drainage Plan – NPDES Stormwater Management Plan approval.

1. Initial submittal for Commission preliminary approval of Site Development Plan.

2. After Commission approval, a review of the Grading and Drainage Plan by the Village Designated Engineer is required.

a. If the Village Designated Engineer requires substantial changes (changes which would require reconfiguration of buildings or parking lot) the Site Development Plan shall be brought back before the Planning and Zoning Commission for preliminary approval of revised plan.

b. Comments from the Village Designated Engineer are addressed and the plan is corrected and resubmitted for final review.

c. Final review and approval by the Village Designated Engineer required for final Site Plan approval by the Board of Trustees.



(e) Requirements. The Commission and Board shall not approve any Site Development Plan unless all the requirements of this Section are met and satisfactory provisions have been made concerning all components.

1. Site Development Plan submittals shall be prepared and signed by a New Mexico professional engineer, architect or a land surveyor licensed in New Mexico.

2. Two (2) copies submitted for initial review by Planning Director.

a. Planning and Zoning Director shall inform applicant as to size and number of plans required for hearings after staff review and approval for content.

(f) Site Development Plans shall include the following: (data sheets may be combined)

1. Existing Conditions Plan requirements

a. Address of Property (Los Ranchos de Albuquerque);

b. Site Map;

c. Existing buildings and disposition;

d. Existing contour elevations and spot elevations at access points;

e. Existing trees, landscaping, outcroppings, etc.;

f. Existing utilities, power poles, transformers, right-of-ways and easements;

g. Adjacent street names;

h. Other appurtenances that exist which impact the development (wells, walls, ditches etc.); and

i. Archeological or historical data and clearance if required from State Historic Preservation Office;

2. Site Plan

a. Vicinity map with north arrow;



- b.** Lot dimensions, setbacks, and easements;
- c.** Data for total site area, disturbed area, and total impervious area;
- d.** Ingress/egress to the property and access to proposed structures thereon, with particular reference to automobile and pedestrian safety;
- e.** Pedestrian walkways.

3. Sign Requirements;

- a.** Placement of all signs.
- b.** Size and type of signs (must be permitted separately and follow §9.2.22 for Signs)

4. Exterior lighting locations, type of lighting

5. Mailbox locations;

6. Bike rack locations;

7. Building plans/elevations;

- a.** Total proposed square footage for all structures;
 - i.** Individual square footage per structure marked on plans. (Heated and unheated, covered patios and walkways).
- b.** Proposed use of space;
 - i.** Restaurants must meet State Environmental Health requirements.
- c.** Four direction exterior elevation plans;
- d.** Height from final grade – marked on plans;
- e.** Exterior materials and colors; and
- f.** Exterior equipment (including roof mounted).



(g) Grading and Drainage Plan – NPDES Stormwater Management Plan

- 1.** Vicinity map and north arrow;
- 2.** FEMA Floodplain data, benchmark data and legend;
- 3.** A complete Grading and Drainage Plan (EPA NPDES Stormwater Management Plan) which will be forwarded to the building permitting process as follows:
 - a.** A topographic survey and grading plan with final elevation contours to be achieved by grading.
 - i.** All grade and spot elevations at access points.
 - b.** Stormwater management measures;
 - i.** Selected to best accommodate the specific geologic, hydrologic, and topographic features of the land to be developed.
 - c.** Stormwater runoff peak flow rate;
 - i.** Determined by the one hundred (100) year, six (6) hour storm event.
 - ii.** Calculation of the runoff peak flow rate may approximate the event from available data.
 - d.** On-site control measures;
 - i.** These may include, but are not limited to, the use of detention or retention basins and active and passive water harvesting techniques including swales, berms, cisterns, check dams, vegetative ground cover, and other techniques appropriate for retaining and infiltrating water on-site.
 - e.** All water containment in structures that have water open to the air;
 - i.** Shall empty within twenty four (24) hours through approved outlet structures designed to ensure a controlled release of water that will not cause flooding or erosion or shall empty within ninety-six (96) hours through percolation or natural infiltration.



ii. Percolation tests or other means of demonstrating that containment structures will empty within ninety-six (96) hours may be required.

f. Infiltration, detention, and retention basins;

i. Shall provide a means of controlling and removing sediment.

ii. Methods may include sedimentation settling ponds, sediment traps, filters on drop inlets, or other methods.

iii. All basins shall be designed to empty within no more than 24 hours with approved outlet, or within 96 hours as per §9.2.25(E)(3)(g)(3)(e)(1). Vector control for mosquitoes, other insects and rodents shall be maintained.

g. Wherever possible, retention water shall be used for the irrigation of vegetation for landscaping;

h. No stormwater runoff shall be routed into public irrigation ditches, canals, acequias or private ditches;

i. No stormwater runoff shall be permitted to enter streets, public or private or public or private adjacent property.

i. A roof run-off drainage plan;

j. In-flow of runoff from adjacent properties; and

k. A post construction maintenance plan.

(h) Roadway Standards

1. Traffic control mechanisms;

a. Traffic Impact Study may be required.

2. The Village retains the right to limit access to major arterials from private drive ways and proposed developments when:

a. The house does not front on a major arterial (Rio Grand Blvd., Fourth Street, Montano, Osuna, Guadalupe Trail, etc.) as designated by the Village.



- b.** The house is part of a subdivision with internal streets used for ingress and egress by the subdivision.
- c.** Right of way can be obtained via a subsidiary street.
- d.** Granting right-of-way constitutes a safety hazard, would contribute to congestion and is contrary to the public welfare.

3. Roadway Specifications

a. Standard curbs and gutters are not allowed, in order to maintain the rural, agricultural nature of the Village, except when:

- i.** The Grading and Drainage Stormwater Management plan requires curb and gutter as a necessary part of the plan; or
- ii.** The streets are part of a state, federal or local infrastructure improvement.

b. Public roadways shall meet Urban Residential Street specifications per Attachment §9.2.25(E)(4)(h)(3)(b).

c. Private paved roadways shall meet Paved Private Way specifications per Attachment §9.2.25(E)(4)(h)(3)(b); or approved alternative.

d. Private graveled roadways shall meet Graveled Private Way specification per Attachment §9.2.25(E)(4)(h)(3)(d).

e. Rolled curb and gutter may be approved on a case by case basis.

(i) Parking Requirements and parking lot design

- 1.** Required number of parking spaces and dimensions;
- 2.** Required number of handicapped parking spaces and dimensions;

(j) Loading and docking areas;

(k) Paved parking lots meeting the Paved Private Way specifications of Attachment 1; and



(l) Unpaved parking lots meeting the Graveled Private Way specification of Attachment 2.

(m) Trash receptacles

1. Dumpsters must be placed on a concrete pad and be enclosed and gated, away from abutting neighborhoods or special considerations for the neighborhood, such as screening, must be employed.

(n) Landscaping Plan

1. Must meet Section 19 Landscaping.

(o) Utilities Plan.

1. Sewer and water availability statement from ABCWUA; and
2. Location of existing and proposed fire hydrants approved by the Fire Department.

(p) Lighting Plan

1. Must meet current provisions in Section 20 for Dark Skies.

(q) Signage Plan (separate permit required)

1. Must meet current provisions in Section 22 for Signs.

(r) Site Development Plan must meet all Fire Department requirements.

(s) Additional Requirements. Any change in use which would require additional parking and/or any alteration or addition to the site of any structure upon the site, shall require the re-submittal of an application and approval as required by this Section.

1. The Planning Director/Commission/Board may require additional information on the economic, noise, glare or odor effects of the proposed use on adjoining properties and the overall health and safety of the community.

(t) Variance from Site Development Plan Requirements

1. Where the Board of Trustees finds that extraordinary hardships or practical difficulties may result from strict compliance with this Site Development and/or the purposes of this Section may be served



to a greater extent by an alternative proposal, it may approve variances of conditions to this Section so that substantial justice may be done and the public interest secured, provided that the variance shall not have the effect of nullifying the intent and purpose of this Section; and further, the Board of Trustees shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case.

2. Conditions. In approving variances to Site Development Plans, the Board of Trustees may require such conditions as it will, in its judgment, secure substantially the purposes described herein.

3. Procedures. The applicant shall submit an application for a variance from Site Development Plan requirements in writing at the time the Site Development Plan is filed for the consideration of the Planning and Zoning Commission. The applicant shall state fully the grounds for the application and all of the facts relied upon by the applicant.

4. Findings. Such findings of the Planning and Zoning Commission, together with the specific facts upon which such findings are based, shall be forwarded to the Board of Trustees with a recommendation. Variances may be granted only when in harmony with the general purpose and intent of this Article so that the public health, safety or welfare may be secured and substantial justice done. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship.

(5) Special Use Permits. Review and approval by the Board of Trustees is required for all Special Use Permits.

(6) Text Amendments to the Zoning Code. Text Amendments to the Zoning Code may be considered by the Commission/Board upon receipt of a completed application, or upon request of the Planning Director, Planning and Zoning Commission or a member of the Board of Trustees.

(7) Variance. A variance may be granted from the terms of this Section if:

(a) The variance is in conformance with the goals and policies of the Village Master Plan;

1. It is not contrary to the public interest; and

2. Owing to special conditions, a literal enforcement of this Section will result in unnecessary hardship.

3. Use of premises shall never be changed via a variance.

(b) For purposes of this section, enforcement of this Section shall be deemed to cause unnecessary hardship if:



1. When compared with other land in the vicinity subject to the same provisions, the parcel is exceptional by reason of physical characteristics of the land that existed when the provisions were adopted or which were created by natural forces or by government action for which no compensation was paid;

2. When compared to other land in the vicinity subject to the same provisions, the parcel is exceptional by reason of the condition or use of the parcel or of other land in the vicinity which condition or use existed when the provisions were adopted;

3. The parcel is irregular or unusually narrow in shape, and the condition existed when provisions were adopted or was created by natural force or government action for which no compensation was paid;

4. Circumstances have created a condition under which no reasonable use can be made of the land without the requested variance, provided however, that the fact that the affected parcel might have a greater value with the variance is not sufficient or justification in itself to authorize a variance. Financial gain or loss shall never be the deciding factor in granting a variance unless the property owner would be deprived of all economically feasible use of the property.

5. The development proposed in the variance differs from that allowed in this Ordinance only enough to relieve the alleged hardship; or

6. The alleged hardship is such that relief is justifiable in accordance with the goals and policies of the Master Plan.

(c) An application for a variance for the same property has not been filed within six (6) months from the date of the final action on a prior application.

(d) Each and every variance is unique to the circumstances of the property for which it was granted; the granting of one variance does not set precedence for later variances.

(8) Zone Map Amendments. Amendments to the official Zoning Map may be considered by the Board upon recommendation of the Commission, if an application to amend zoning for the same property has not been filed within twelve (12) months from the date of final action by the Board on a prior application.

F. PUBLIC NOTICE REGULATIONS. Upon receipt of a completed application the Planning Director shall process the application and grant administrative approval as a routine matter and follow the public notice requirements for the appropriate permit.

Any incomplete application or plat may be refused hearing by the Village until said document complies with all requirements of this Section or the Subdivision Code. Refusal to accept a zoning application may be appealed to the Planning and Zoning Commission/Board.

(1) Planning Director Approvals



(a) The Village shall mail individual notice of the application request by first class mail, to the applicant and property owners, as shown by the records of the County Assessor, within a three hundred (300) foot radius of the subject site for lots less than two acres, and a four hundred (400) foot radius for sites over two acres, and,

(b) For Home Occupation Permits, De Minimis Home Occupation Permits and Bed and Breakfast permits, the Village shall mail individual notice of the application request by first class mail to adjoining neighbors stating the nature of the proposed home occupation or that it is a Bed and Breakfast.

(c) The applicant shall post and maintain one or more signs describing the proposed request on the subject property at a location designated by the Planning Director. The applicant shall remove the sign(s) within five (5) days after the decision

(d) The public notice period shall be fifteen (15) calendar days from the date of mailing, after which the Director shall make a decision.

(e) The public may comment on the application and the Director shall consider the issues raised by the public.

(2) Commission Approvals

(a) Upon receipt of an application that requires Commission approval or review, the Planning Director shall designate a meeting of the Commission to consider the application. Consideration of the application shall be at a public hearing at the time and place designated by the Planning Director and contained in a public notice in a daily newspaper of general circulation within the Village at least fifteen (15) days before the date of the hearing. The notice shall state the address and/or legal description of the property and describe the request.

(b) Upon receipt of an appeal from a Planning Director decision, the Village Clerk and Planning Director shall jointly designate a meeting of the Commission to consider the appeal. Consideration of the appeal shall be at a public hearing at the time and place designated by the Village and contained in a public notice in a daily newspaper of general circulation within the Village at least fifteen (15) days before the date of the hearing. The notice shall state the address and/or legal description of the property and describe the decision being appealed.

(c) The Village shall mail individual notice of the application request or appeal by first class mail, to the applicant and property owners, as shown by the records of the County Assessor, within a three hundred (300) foot radius of the subject site for lots less than two acres, and a four hundred (400) foot radius for sites over two acres, and,

(d) The applicant shall post and maintain one or more signs describing the proposed request on the subject property at a location designated



by the Director. The applicant shall remove the sign(s) within five (5) days after the decision.

(e) The public notice period shall be fifteen (15) calendar days prior to the date of the hearing in which the Commission shall make a decision.

(f) The public may comment on the application and the Commission shall consider the issues raised by the public.

(3) Board Approvals

(a) Upon receipt of an application that requires Board of Trustee review or an appeal from a Planning Director or Commission decision, the Village Clerk shall designate a meeting of the Board to consider the application. Consideration of the application shall be at a public hearing at the time and place designated by the Clerk and contained in a public notice in a daily newspaper of general circulation within the Village at least fifteen (15) days before the date of the hearing. The notice shall state the address and/or legal description of the property and describe the request.

(b) The Village shall mail an individual notice of the public hearing at least fifteen (15) days before the hearing by first class mail to the applicant and property owners, as shown by the records of the County Assessor, within a three hundred (300) foot radius of the subject site for lots less than two (2) acres, and a four hundred (400) foot radius for sites over two (2) acres.

(c) The applicant shall post and maintain one or more signs describing the proposed request on the subject property at a location designated by the Planning Director. The applicant shall remove the sign(s) within five (5) days after the Board issues its decision.

(d) For an application to amend the text of the ordinance, the public notice shall summarize the proposed amendment. The notice shall be published as provided by law and in all cases shall advise that interested parties may examine the application at the Village Hall during normal business hours.

G. HEARINGS AND DECISIONS

(1) Applications, pursuant to this code, may be heard by the Board/Commission at a meeting designated by the Village Clerk or Planning Director, as applicable.

(2) The advertised hearing may be continued to a subsequent regularly scheduled meeting or to a special meeting. The time and place of the continued hearing shall be announced at the originally designated meeting without advertising, re-posting of signs or providing additional notice pursuant to §9.2.25 *et seq.*

(3) All persons wishing to testify at a hearing shall identify themselves and be sworn in by the Village Attorney, Village Clerk or a Notary Public prior to giving



testimony. Testimony shall be limited to the matter that is relevant to the hearing. The Mayor or Commission Chairperson may impose reasonable limitations on the number of witnesses heard, and on the length and nature of their testimony. Parties to a hearing shall include all persons sworn in by the Village Attorney, Village Clerk or Notary Public plus the Board and any Village Staff or paid consultants who are present at the hearing, but shall not include the Village Attorney.

(a) The Applicant must provide all required and relevant material at least one month prior to the scheduled hearing.

(4) Village Clerk shall make and maintain for sixty (60) days a full record of the Planning and Zoning Commission hearing by sound recording. Any party may listen to or obtain a copy of the recording at any reasonable time and cost at Village offices. Summary minutes of the Planning and Zoning Commission hearings shall be kept in the Planning and Zoning Department and be available for public inspection.

(5) The Village Clerk shall make and maintain for sixty (60) days a full record of the Board of Trustees hearing by sound recording. Any party may listen to or obtain a copy of the recording at any reasonable time and cost at the office of the Village Clerk. Summary minutes of the Board of Trustees hearing(s) shall be kept by the Village Clerk and be available for public inspection.

(6) The Village shall act on any application at the conclusion of the hearing. The Village shall state the grounds for the decision pursuant to this Section and State law.

(7) The Village may impose conditions in granting a request.

(8) Written notice of any approval, approval with conditions, or denial of any application for variance, conditional use, or any other permit, zone map amendment, or text amendment shall be mailed or delivered to the applicant within fifteen (15) working days of the date of decision.

H. APPEALS.

(1) Appeals from Director Decision. Any aggrieved party may appeal the decision of the Director (“**Director Decision**”) to the Planning and Zoning Commission in accordance with the procedures set out in subsection (3) hereof. For purposes of these appellate procedures, “aggrieved party” shall mean a party that participated in the appropriate proceedings at the Village and which has a reasonable interest in or nexus to the issues being determined in the proceeding.

(2) Appeals from Planning and Zoning Commission Decision. Any aggrieved party may appeal a decision of the Planning and Zoning Commission (“**Commission Decision**”) to the Board of Trustees as set out in subsection (3) hereof.

(3) Appeal Procedure.

(a) The Notice of Appeal of Director Decision or Commission Decision must be filed with the Village Clerk with the appropriate filing fee, not more than fifteen (15) calendar days after issuance of a Final Notice of Decision.



A Notice of Appeal may be signed by the aggrieved party or an agent of an aggrieved party. If a Notice of Appeal is filed by an agent, a letter or other written document signed by the aggrieved party authorizing the agent to act on their/its behalf must be delivered to the Village Clerk on or before filing of the Notice of Appeal. Regardless of the method of delivery, the Notice of Appeal shall be effective on the date actually received by the Village Clerk. Email is not an acceptable delivery method.

(b) A Notice of Appeal from a Director Decision shall specifically state the basis of the appeal, including citation to any law, Village Master Plan, applicable section of ordinances and other documents or information deemed by the aggrieved party to be relevant to the appeal. Issues to be presented to the Planning and Zoning Commission in the appeal shall be limited to those issues and matters raised in the Notice of Appeal.

(c) A Notice of Appeal from a decision of the Planning and Zoning Commission must specifically state the basis of the appeal, including citation to any law, the Village Master Plan, applicable sections of ordinances and specific references to evidence or documents which were considered by the Planning and Zoning Commission. Without a specific authorization by the Board of Trustees, no factual information not available for consideration by the Planning and Zoning Commission will be considered by the Board of Trustees, nor will any person or entity not participating in the hearing before the Planning and Zoning Commission be permitted to participate or present testimony before the Board of Trustees.

(d) All appeals to the Planning and Zoning Commission and the Board of Trustees shall be deemed quasi-judicial proceedings, which means certain judicial processes and protections are required. All witnesses will be placed under oath and all witnesses shall be subject to cross-examination. All documentation is subject to authentication, verification and cross examination. Appellants and other parties are cautioned not to contact members of the Planning and Zoning Commission nor the Board of Trustees about matters pending on any appeal outside of the scheduled public hearings as those individuals are acting “judges” in the appeal. All communications with the Village should be directed through the Village Clerk or the Director or with specific instruction from the Director to Village legal counsel.

(e) Appeal from a Director Decision or from a Commission Decision shall be scheduled for public hearing on a date which is not earlier than forty-five (45) days after the expiration of the applicable appeal period. On an emergency basis or for convenience of the parties, the Director may, but is not required to, seek a hearing on an appeal at an earlier date. Subject to the rules relating to allowable time and other procedures, interested parties may present testimony and other evidence at such hearing.

(f) If any party desires to submit additional documentation in an appeal from a Director Decision, such documentation must be submitted to the Director not less than thirty (30) calendar days prior to the scheduled hearing date before the Planning and Zoning Commission. Additional documentation will not be accepted for an appeal of a Commission Decision to the Board of Trustees except as set out in subparagraph (c) above. If the additional documentation submitted to the Planning and Zoning Commission prior to an appeal hearing is not given under oath and not subject to cross-examination, the Planning and Zoning Commission may consider or not consider the document(s) as it deems appropriate and if it determines that such document(s) should be considered, will give the document(s) such weight as it reasonably determines in its discretion. Additional documentation submitted at the time of the hearing will not be accepted and will not be included in the record of the



appeal, excepting documents related to a withdrawal of the appeal or request for a deferral of the appellate hearing. A person/entity submitting additional documentation must provide the number of copies as determined appropriate by the Director.

(g) For appeals heard by the Planning and Zoning Commission, the Planning and Zoning Commission may make a final determination as to all or a part of the appeal, may defer a decision on the appeal, or may remand the matter back to the Director for further information or determinations.

(h) In addition to the foregoing, all appeals shall be required to follow the Village of Los Ranchos Rules for Appeals.

(i) For hearings before the Planning and Zoning Commission and the Board of Trustees, public notice is required in accordance with §9.2.25(F) of the Codified Ordinances. The appellant(s) is responsible for all publication fees required for the appeal. If there is more than one appellant, the Director will prorate the fees equally between all appellants.

(j) Decisions by the Board of Trustees are subject to appeal to the District Court of the Second Judicial District pursuant to procedures prescribed by New Mexico State Statutes.

I. VOID PERMITS.

(1) If a permit is granted and the subject activity of the permit has not commenced at the property within one (1) year of the approval date, the permit is void. The Planning Director or Commission may extend the permit upon submission of reasonable cause, such as, but not limited to, a lawsuit preventing development, severe financial hardship caused by injury or accident, etc.

(2) If a zone review is issued for a construction project and construction on the building is stopped for a consecutive period of six months (180 days), the zone review is void and a new permit must be obtained which meets current ordinances at the time of commencement of building.

