

§ 9.2.4 GENERAL REGULATIONS

(A) **PURPOSE AND INTENT.** These general regulations shall apply to all development and redevelopment in the Village for the purpose of implementation of the goals of the Master Plan. These regulations shall be construed as minimum requirements.

(B) **AREAS SUBJECT TO FLOODING.** All buildings and structures erected or improvements constructed upon any lot within the Village shall conform to § 4.2.1 *et seq.* Flood Damage Prevention and § 4.3.1 *et seq.* Storm Water Management.

(C) **CLEAR SIGHT TRIANGLE.** At all roadway intersections, no obstruction to view shall be placed or maintained within the clear sight triangle.

(D) **DEVELOPMENT.** All properties developed for residential purposes whether they are occupied or not shall be regularly maintained so that they are not allowed to fall into a state of disrepair and neglect. They shall consistently present a neat and orderly appearance to the general public as well as adjacent or nearby tenants and property owners. All properties developed for commercial purposes whether occupied or not shall be regularly maintained so that they are not allowed to fall into a state of disrepair and neglect and they shall be brought up to current regulations and codes, i.e., storm water retention, lighting, signage, landscaping, ADA access, upon additional construction, including interior remodeling, exterior renovation or parking lot improvements. All properties shall be maintained free of hazards, accumulations of weeds, refuse, trash, attractive nuisances, construction or demolition debris or any other health and safety menace. A property shall not be used to accumulate soil for development unless a grading and drainage plan has been approved by the Village and a zoning permit and construction permit have been issued.

(E) **DITCH PRESERVATION.** This Article shall be interpreted and enforced to preserve the Middle Rio Grande Conservancy District's network of irrigation and drainage facilities to the greatest degree possible and encourage continued irrigation.

(F) **DRIVEWAY ACCESS TO STRUCTURES.** All structures shall be located such that safe and legal access is provided for emergency vehicles, service vehicles, police and fire protection, and are required to provide off-street parking or loading. All development on parcels in the Fourth Street corridor shall provide driveways for vehicular access based on the following restrictions:

(1) For every one hundred and fifty (150) feet of roadway frontage, there shall be no more than one (1) driveway providing ingress and egress. Shared access shall be encouraged between parcels wherever practicable.

(2) No driveway shall have a width in excess of twenty-eight (28) feet unless greater width is specifically required by the Village.

(3) All driveway areas shall be clearly defined.

(4) Corner lots may make use of public side streets for egress provided they are at least seventy-five (75) feet from other driveways measured from the center of the respective driveways.

(5) Any driveway within seventy-five (75) feet of an intersection must be approved by the Village.

(6) Driveway curve radius shall be no greater than fifteen (15) feet. Sidewalks shall be constructed in a continuous horizontal plane across driveways.



(G) FIRE HAZARD AND FIRE HYDRANT ACCESS. All property, developed or undeveloped, shall be maintained in such a manner so as not to be a fire hazard as defined by applicable State and Village-adopted Fire Codes. There will be a minimum of a three (3) foot clear radius around every fire hydrant.

(H) HEALTH AND VECTOR CONTROL. All property, developed and/or undeveloped, shall be maintained in such a manner not to allow harboring or attracting of vermin such as rodents, mosquitoes, flies, and cockroaches.

(I) LIGHTING REQUIREMENTS. All exterior lighting shall be arranged and shaded and in compliance with § 9.2.20, Dark Skies.

(J) MOBILE HOMES / RECREATIONAL VEHICLES. All mobile homes shall be skirted within ninety (90) days of placement in an approved Mobile Home Park with material similar in color and texture to the exterior of the mobile home. In no case shall a gap be visible between the bottom of the mobile home and its skirting.

(1) Recreational Vehicles (RV) shall not be leased as permanent dwelling units, even in a mobile home park, however, an owner of an RV unit may lease space from a mobile home park and is considered transient.

(K) OCCUPANCY REQUIREMENTS. No building or structure shall be occupied unless it is connected to a well or water supply system permitted by the State Engineer; private or community liquid waste system which is permitted by the State of New Mexico Environment Department or its succeeding agency or public sanitary sewer. No building or structure shall be occupied unless a Certificate of Occupancy has been issued by the Building Inspector or a Certificate of Compliance issued by the Building Official/Planning Director.

(L) PUBLIC NUISANCE (UNSAFE BUILDINGS OR DWELLING UNITS)

(1) General. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Code Enforcement Officer or Director of Planning and Zoning, to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness, disease or death, is deemed a dangerous building or structure.

(2) All buildings or structures (including Mobile Homes and RVs) regulated by this Code that are structurally inadequate or have inadequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe buildings or dwelling units.

(3) Service Equipment. Building service equipment, which constitutes a fire, electrical, health hazard, unsanitary condition, or is otherwise dangerous to human life, is for the purpose of this section, unsafe. Any use of buildings, structures or building service equipment constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use.

(4) Projections. Parapet walls, cornices, spires, towers, tanks, signs, statuary and other appendages or structural members which are supported by, attached to, or are a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the International Building Code are hereby designated as unsafe building appendages.



(5) Abatement. All such unsafe buildings, structures, dwelling units or appendages and building service equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Dangerous Building Code or such alternate adopted by this jurisdiction. As an alternative, the Planning Director or other employee or official of this jurisdiction as designated by the governing body may institute any other appropriate action to prevent, restrain, correct or abate the violation.

(M) **SHELTER FOR SMALL ANIMALS.** Shelter for small animals, including but not limited to chickens, rabbits, canines, Avery, sheep, goats, etc., is exempt from building permit requirements of the adopted Building Code, but do require a zone review from the Village if shelter exceeds 50 square feet.

(N) **SIGNS AND OUTDOOR ADVERTISEMENT.** All signs shall conform to the applicable regulations delineated in § 9.2.22 *et seq.*, Signs.

(O) **STORM WATER RETENTION/DETENTION.** Storm water retention and/or detention shall be in accordance with all applicable Village, County and State statutes, ordinances and requirements. All lots improved or developed, after October 27, 2003, shall retain additional localized storm water generated by development on site in accordance with §4.3.1 *et seq.*, Stormwater Management.

(P) **UTILITY EASEMENT RESTRICTIONS.** Trees expected to attain a mature height of more than twenty-five (25) feet shall not be planted within fifteen (15) feet of the centerline of overhead utility lines.

(Q) **WATER AND WASTEWATER REQUIREMENTS.** All structures constructed within the Village shall be in compliance with applicable regulations established by the New Mexico Environment Department and the New Mexico State Engineer's Office concerning water and wastewater facilities and systems as well as § 13.1.1 *et seq.*, Sewer Systems. All commercial properties in the C-1, GD or VC Zones must connect to the public sanitary sewer upon development or redevelopment.

(R) **WELFARE OF ANIMALS.** § 7.2.1 *et seq.*, Animal Control is hereby incorporated by reference and any violation of the Animal Control Ordinance shall also be a violation of the Village Zoning Code.

(S) **PROHIBITED USES.** Any use not classified as a permissive or conditional use within a particular zoning district is hereby prohibited from that zoning district.

(T) **USE OF RIGHT-OF-WAY.** No improvements, including landscaping or other obstructions, shall be placed in the right-of-way without the written consent of the Village prior to such improvement being placed. The Village shall have the right to order the removal of any right-of-way encroachments and the failure to comply with such order shall be a violation of this Article.

(U) **FOURTH STREET DEVELOPMENT.** For any undeveloped lot with frontage on Fourth Street, a mandatory condition of approval for a site development plan or subdivision is the dedication of no less than seven (7) feet of right-of-way along the property frontage for the future use of the Village to provide pedestrian and aesthetic amenities. Likewise, for a lot with Fourth Street frontage being redeveloped, a mandatory condition of approval for a site development plan or subdivision is the dedication of no less than seven (7) feet of right-of-way along the property frontage unless said dedication has already occurred on the property. The



Village reserves the right to require greater dedications to comply with approved development plans of the Village.

(V) TWO HUNDRED EIGHTY (280) FOOT SETBACK PROCEDURE

(1) Purpose and Intent. Codified ordinances §§ 9.2.4(U), 9.2.7(E)(3), 9.2.8(E)(2)(B) and 9.2.9(E)(2)(B) establish a setback from Rio Grande Boulevard of 280 feet (“Setback”) and do not allow the construction of any building between the Setback and Rio Grande Boulevard. Each such Section also includes the following language:

“To preserve development rights, all properties affected by this setback may be developed to the maximum overall density that would otherwise been allowed on the property, however, all development must take place behind the setback.”

The land between the Setback and Rio Grande Boulevard is referred to as the “Restricted Property.” Land outside the Restricted Property will be referred to herein as the “Development Property.”

The Codified Ordinances do not specify the type or conditions of development which may be undertaken on the Development Property so as to achieve the maximum overall density (“Maximum Overall Density”). The purpose and intent of this Ordinance is to specify conditions, procedures, and other elements required or permitted to undertake development of and construction on the Development Property consistent with the intent of the Setback to preserve open space along the Rio Grande corridor.

(2) Limited Effect. The provisions of this Section are limited to development and construction in areas affected by the sections recited in Section A together with development affected by Section 9.2.8(E)(2)(D) and shall not be deemed to change zoning, or affect or specify standards for development or construction on any property not specifically subject to the Code Sections set out in Paragraph (1) above.

(3) Determination of Maximum Overall Density. Any owner of property restricted by the Setback or any agent of an owner of property restricted by the Setback and acting pursuant to a written designation of authority, may request a determination of the Maximum Overall Density by the Director of Planning and Zoning (“Director”). Such request shall be in writing and shall provide the name of the owner of the property, the legal description of the property, a description of any existing buildings or improvements on the property and such other information as the Director may request. Within forty-five (45) days after receipt of a request, together with all information requested by the Director, the Director will provide a written determination as to the Maximum Overall Density for the property based upon then current Village ordinances and design criteria. If the property owner disagrees with the determination by the Director, the property owner may provide such objections to the Director in writing, in which event the Director will issue a written decision of the Maximum Overall Density after taking such objections into account. If the property owner still disagrees or objects to such determination, such owner may appeal the decision of the Director to the Planning Zoning Commission (“Commission”) by filing a Notice of Appeal within fifteen (15) days after the date of the decision by the Director. Appeals to the Commissioners are subject to established appellate procedures.

(4) Acceptable Development. Subject to review and approval as set out hereinafter, development on the Development Property will be allowed in the form of single-family residential and Cluster Developments.

(5) Preservation of Open Space. Each development of the Development Property will require the filing of covenants or restrictions which allocate or otherwise preserve the open space within the Restricted Property and within the Development Property to each residential unit(s), regardless of type, so as to assure the area within the Restricted



Property and within the Development Property is not subject to further development and/or construction based upon change of conditions or other factors.

(6) Setbacks. Setback requirements between construction on the Development Property and the Restricted Property are hereby waived. All other setbacks will be maintained in accordance with existing ordinances, where maintaining such setbacks does not unreasonably interfere or make development of the property within the Development Property not feasible. In the event maintaining existing setback requirements unreasonably interferes with or makes development of the Development Property impractical, exceptions to such setbacks may be granted (but shall not be required to be granted) in the approval of the Site Plan without the necessity of complying with the criteria for granting of variances under the applicable zoning ordinances. Internal setbacks between buildings on properties in the Development Property shall be as established by the Site Development Plan approved by the Village in accordance with the provisions hereof.

(7) Development Process.

(a) Any party seeking to develop within the Development Property is encouraged to meet informally with the Director prior to undertaking formal planning for the property. The Director will discuss concerns and issues identified by the Village; however, the property owner understands the Director is not the final approving authority and opinions by the Director are not binding upon the Village, except as otherwise provided herein.

(b) After determining the type of development that may be undertaken, the property owner must submit an application for a Site Development Plan showing the type of development, the number of dwelling units, the lot size(s), the general layout of all buildings, subdivision requirements, access, setbacks, height of buildings and such other elements as are requested by the Director. Procedures for applying for and approval of a Site Development Plan shall be in accordance with ordinances existing at the time of application. The final Site Development Plan, as finally approved (final approval must be by the Board of Trustees), with modifications and additions as may be added or amended during the approval process, shall be the governing document related to the development. All items which the Village deems to be mandatory shall be placed in the Site Development Plan, the Subdivision Plat, or in covenants which shall be recorded in the real property records of Bernalillo County so as to give notice to subsequent purchasers, prior to the transfer of the property to any third party.

(c) Regardless of the size of the property, any subdivision plat will be processed as a Major Subdivision with the notice provided in accordance with the procedures governing Major Subdivisions. Subdivision plats must comply with all requirements for major subdivision plats, including but not limited to, access, drainage, and utilities. The plat may also be required to contain references to covenants or restrictions as set out herein above.

(d) All projects developed pursuant to this ordinance must connect to public water and liquid waste facilities.

(e) Development under this Section shall, when reasonably possible, protect and accommodate use of MRGCD water rights for irrigation of any open space or common areas including the Restricted Property.

(8) Special Consideration. In exceptional circumstances, when the Maximum Overall Density cannot be reasonably achieved without construction within the Restricted Property or the Setback as specified in Section 9.2.8 (E)(2)(D), the Board of Trustees may approve exceptions from the Setback and allow limited construction within



the Restricted Property in order to reasonably achieve the intent of the ordinances which provide for construction to the Maximum Overall Density.

(9) Existing Structures. In cases in which there are existing residences or structures already within the Restricted Property, such uses shall be deemed legally nonconforming; however, the Village may approve remodeling, demolition and reconstruction and other such activity of any existing residences, provided any remodeled or reconstructed residence is in approximately the same location as the original residence and does not increase the total square footage under roof of the building(s), including heated and non-heated areas, by more than twenty-five percent (25%). Notwithstanding other provisions of any ordinance, residences located in the Restricted Property shall not be entitled to a conditional use for a Guest House. Any Conditional Uses otherwise provided for in the existing zoning for the property may be constructed or used, but only within the Development Property.

(10) Densities. Nothing in this section, shall authorize densities in excess of the Maximum Overall Density, whether by special use permit, variance, or otherwise. However, the foregoing shall not restrict the authority of the Village to adopt new or different zoning ordinances which would affect the overall densities permitted in the Development Property.

