

# VILLAGE OF WILLIAMSBURG, NEW MEXICO CODE OF ORDINANCES

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## TITLE I: GENERAL PROVISIONS

Chapter

### **10. RULES OF CONSTRUCTION; GENERAL PENALTY**

## **CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY**

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### **§ 10.01 TITLE OF CODE.**

This 2009 codification of ordinances by and for the Village of Williamsburg, New Mexico, shall be designated as the "Williamsburg Code of Ordinances" and may be cited herein as "this code" or "this code of ordinances".

### **§ 10.02 INTERPRETATION.**

Unless otherwise provided herein or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

### **§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I, compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

### **§ 10.04 CAPTIONS.**

Headings and captions used in this code other than the title, chapter, subchapter and section number are employed for reference purposes only and shall not be deemed a part of the text of any section.

### **§ 10.05 DEFINITIONS.**

(A) Words and phrases shall be taken in their plain, ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

**APPOINTED OFFICIAL.** Any person appointed in accordance with state law or any person appointed to a board, commission or advisory body, in accordance with this code of ordinances. **APPOINTED OFFICIALS** are not subject to the provisions of the village personnel ordinance and shall serve at the pleasure of the Governing Body and the Mayor.

**CLASSIFIED EMPLOYEE.** A person employed by the village who is entitled to grievance in accordance with the personnel policies and work rules and who is not exempt under the Fair Labor Standards Act, being 29 U.S.C. §§ 201 *et seq.*

**CODE** or **CODE OF ORDINANCES.** The village's code of ordinances, as modified by amendment, revision and adoption of new chapters, subchapters or sections.

**COUNTY.** Sierra County, New Mexico.

**ELECTED OFFICIAL.** Those village officials elected under the laws of the state, specifically, the Mayor, Trustees and the Municipal Judge.

**GOVERNING BODY.** The Mayor and the Trustees are the Governing Body. The corporate authority of the municipality is vested in this body.

**INTERPRETATION.** For the purpose of this code and ensuing chapters and appendices and when not inconsistent with the context:

- (a) Words used in the present tense include the future;
- (b) Words in the future tense include the present;
- (c) Words in the plural include the singular;
- (d) Words in the singular include the plural;
- (e) The word **SHALL** is always mandatory and not merely directory; the word **MAY** is permissive; and
- (f) The impersonal pronouns **HE**, **HIM** and **HIMSELF** shall denote either the feminine or the masculine gender.

**MAYOR.** The elected officer of the village who exercises administrative control and supervision over the village and hires or appoints directors of all village departments and other employees pursuant to state law. Where applicable, the term **MAYOR** means those persons whose authority has been granted by the **MAYOR**.

**MONTH.** A calendar month.

**MUNICIPAL OFFICER.** Any appointed employee. A **MUNICIPAL OFFICER** is limited to a Department Director.

**OATH.** An affirmation in all cases in which, by law, an affirmation may be substituted for an **OATH** and, in such cases, the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION** or **DEPARTMENT.** An officer, office, employee, commission or department of the village unless the context clearly requires otherwise.

**PERSON.** Extends to and includes, without limitation, person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER**, as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PRECEDING** or **FOLLOWING.** Next before or next after, respectively.

**SIGNATURE** or **SUBSCRIPTION.** Includes a mark when the person cannot write.

**STATE.** The State of New Mexico.

**VILLAGE** or **MUNICIPALITY.** The Village of Williamsburg, New Mexico, a fully empowered municipal corporation. **VILLAGE**, **MUNICIPALITY** or **MUNICIPAL** shall always refer to the village.

**WRITTEN.** Any representation of words, letters or figures, whether by printing or otherwise.

**YEAR.** A calendar year unless otherwise expressed.  
(Ord. 204, passed 5-20-2003)

## **§ 10.06 RULES OF INTERPRETATION.**

The construction of all ordinances of the village shall be by the following rules unless the construction is plainly repugnant to the intent of the Governing Body or of the context of the same ordinance:

(A) **AND or OR.** Either conjunction shall include the other as if written and/or, if the sense requires it.

(B) **Acts by assistants.** When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requirement shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) **General term.** A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

## **§ 10.07 SEVERABILITY.**

The provisions of this code of ordinances are severable, and if any provision, subchapter, section, division, clause, sentence or part thereof is held to be illegal, invalid, unconstitutional or inapplicable, to any person, persons, circumstances, situation or otherwise, the illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining sentences, clauses, divisions, sections, subchapter or parts of this code of ordinances, or their applicability to other persons, circumstances or situations.

## **§ 10.08 REFERENCE TO OTHER SECTIONS.**

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

## **§ 10.09 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the village exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

## **§ 10.10 ERRORS AND OMISSIONS.**

(A) If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

#### **§ 10.11 OFFICIAL TIME.**

The official time, as established by applicable state/federal laws, shall be the official time within the village for the transaction of all village business.

#### **§ 10.12 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) (1) The time within which an act is to be done shall be computed by excluding the first day and including the last.

(2) If the last day be a Saturday, Sunday or village holiday, it shall be excluded.

#### **§ 10.13 ORDINANCES REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

#### **§ 10.14 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

#### **§ 10.15 EFFECTIVE DATE OF ORDINANCES.**

An ordinance shall not become effective until five days after it has been published unless passed and approved as an emergency measure, in which event it shall become effective immediately following publication or at a subsequent date determined by the Governing Body.

#### **§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall, in any way, be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision unless it is expressly provided.

#### **§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the Governing Body shall desire to amend any existing chapter, subchapter or section of this code, the chapter, subchapter or section shall be specifically repealed and a new chapter, subchapter or section, containing the desired amendment, substituted in its place.

(B) (1) Any ordinance which is proposed to add to the existing code a new chapter, subchapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter, subchapter or section.

(2) In addition to the indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

#### **§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number of the original ordinance and amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 75, passed 1-10-1990; Ord. 124, passed 8-24-1999)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (NMSA § 3-8-9)

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

##### **§ 39.01 MUNICIPAL ELECTION CODE.**

The Municipal Election Code, NMSA § 3-8-9, as amended and as supplemented from time to time, shall govern the conduct of all aspects of all municipal elections, except when the Municipal Election Code is silent on a matter, then the State Election Code, NMSA Ch. 1, shall govern, as appropriate; however, if any provision of either

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the Municipal Election Code or the State Election Code is inconsistent with the terms hereof, this chapter shall take precedence.

(Ord. 92, passed 1-20-1990)

***Statutory reference:***

*Terms of the Municipal Election Code, see NMSA §§ 3-8-1 et seq. and §§ 3-9-1 et seq.*

*Terms of the State Election Code, see NMSA Ch. 1*

### **§ 10.19 COPIES OF CODE.**

The Williamsburg Code of Ordinances may be inspected at the Village Office at 309 Veater, Williamsburg, New Mexico during normal business hours and a copy may be obtained from the Village Clerk/Treasurer upon payment of a reasonable reproduction fee.

### **§ 10.99 GENERAL PENALTY.**

(A) (1) Any person convicted of violating any municipal ordinance the penalty for which carries a potential jail term shall pay in addition to any fine or other sentence, a \$20 corrections fee to the Municipal Judge.

(2) All money collected pursuant to this division (A) shall be deposited in a special fund in the Municipal Treasury and shall be used only for Municipal Jailer training, the construction planning, construction, operation and maintenance of the Municipal Jail, for paying the costs of housing the municipalities prisoners in other detention facilities in the state or complying with match or contribution requirements for the receipts of federal funds relating to jails.

(B) (1) Any person convicted of violating any municipal ordinance, the penalty for which carries a potential jail term, or any ordinance related to the operation of a motor vehicle shall pay to the Municipal Court, in addition to any fine or other sentence, a \$3 Judicial Education fee.

(2) All money collected pursuant to this division (B) shall be remitted monthly to the New Mexico Judicial Education Center for credit to the Judicial Education fund and shall be used for the education and training, including production of bench books and other written material, of Municipal Judges and other Municipal Court personnel.

(C) Unless another penalty is expressly provided in an ordinance or as otherwise provided by state law, any person convicted of a violation of any ordinance of the village shall be punished by a fine of not more than \$500 or by imprisonment for not more than 90 days or by both the fine and imprisonment.

(D) Upon a plea of guilty or a judgment of conviction for violation of a municipal 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.

(E) 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.

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

(G) 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 worker's compensation, unemployment benefits or any other benefits otherwise provided by law. As used in this division (G), **COMMUNITY SERVICE** means any labor that benefits the public at large or any public, charitable or educational entity or institution.

(Ord. 84, passed 8-13-1987; Ord. 93, passed 10-12-1989; Ord. 94, passed 10-12-1989; Ord. 73-2003, passed 7-9-2009)

***Cross-reference:***

*Magistrate Court; penalties; sentence and the like; appeal; procedure, see § 30.26*

***Statutory reference:***

*Penalty for misdemeanor, see NMSA § 3-17-1*

## TITLE III: ADMINISTRATION

Chapter

**30. ADMINISTRATION GENERALLY**

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## CHAPTER 30: ADMINISTRATION GENERALLY

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- 30.03 Compensation
- 30.04 Office hours

***Magistrate Court***

- 30.20 Creation and establishment
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**GENERAL PROVISIONS**

**§ 30.01 SMOKING IN VILLAGE-OWNED PROPERTY.**

(A) *Declaration of policy and intent.* The Governing Body finds and declares that the smoking of tobacco, or any other weed or plant, is a positive danger to health and a health hazard to those who are present in enclosed places and therefore seeks to protect the public from this known health risk.

(B) *Definitions.* For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

***PUBLIC BUILDING.*** Any building owned or leased by the village.

***PUBLIC MEETING.*** Any meeting of a public body that is not closed pursuant to the State Open Meetings Act (NMSA §§ 10-15-1 *et seq.*).

***SMOKE or SMOKING.*** The carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment, or the lighting of emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.

(C) *Smoking prohibited.* It is unlawful for any person to smoke in a public building or at a public meeting, except that this section shall not apply to smoking permitted areas in buildings owned or leased by the village.

(D) *Signs.* The Mayor shall designate a person to be responsible for signs using the words "No Smoking" or the International No Smoking Symbol or both are conspicuously posted whether on a public entrance, or in a position where the sign is clearly visible upon entry into the public building. Signs designated as smoking permitted areas shall also be posted.

(Ord. 107, passed 3-9-2000) Penalty, see § 30.99

**§ 30.02 RETIREE HEALTH CARE ACT; OPTIONS.**

Pursuant to § 9.D of Chapter 6, Laws of New Mexico, 1990, the village determines to be excluded from coverage under the Retiree Health Care Act, being NMSA §§ 10-7C-1 through 10-7C-19.

(Ord. 95, passed 5-10-1990)

### **§ 30.03 COMPENSATION.**

(A) The salary for the Office of Mayor shall be set from time to time by the Board of Trustees.

(B) A schedule of current sales shall be kept on file and be available for public inspection in the office of the City Clerk/Treasurer.

(Res. 14 2001/2002, passed 1-10-2002)

### **§ 30.04 OFFICE HOURS.**

(A) The Municipal Office shall be open to the public eight hours daily, Monday through Friday, except for the days designated to be legal holidays by resolution of the Governing Body.

(B) The office shall be open from 8:00 a.m. to 5:00 p.m., Monday through Friday.

(C) Specific days and office hours may be changed by resolution of the Governing Body.

(Res. 2, passed 8-12-2004)

## **MAGISTRATE COURT**

### **§ 30.20 CREATION AND ESTABLISHMENT.**

There is hereby established a Municipal Court in the village pursuant to NMSA § 35-14-1, as amended. The Court shall be presided over by a Municipal Judge.

(Ord. 30, passed 8-10-1971; Ord. passed 11-12-1981)

### **§ 30.21 JURISDICTION.**

The Municipal Court shall have jurisdiction over all offenses and complaints under the provisions of the ordinances of the village and may issue subpoenas and warrants and punish for contempt.

(Ord. 30, passed 8-10-1971; Ord. passed 11-12-1981)

### **§ 30.22 JUDGE, QUALIFICATION; SALARY; TERM AND THE LIKE.**

- (A) Qualifications of the Municipal Judge are:
  - (1) A qualified elector of the village; and
  - (2) Attendance at annual Judge's seminar.
- (B) Bond required of the Municipal Judge shall not be less than \$1,000.
- (C) The salary of the Municipal Judge is hereby fixed in the sum of \$100 per month until changed by ordinance.
- (D) The Municipal Judge shall be elected for a term of four years. The Board of Trustees may fill vacancies by appointment of a Municipal Judge to serve until the next regular municipal election.
- (E) Any registered voter of the village may be appointed, by resolution of the Board of Trustees, during the temporary incapacity or absence of the Municipal Judge and he or she shall hear and determine cases arising under village ordinances while sitting as Municipal Judge.
- (F) The requirements of law relating to money collected, monthly reports, itemized statements and penalties apply to temporary Municipal Judge.  
(Ord. 30, passed 8-10-1971; Ord. passed 11-12-1981; Ord. passed 2-9-1984)

### **§ 30.23 MONTHLY REPORTS AND REMITTANCES.**

- (A) The Municipal Judge shall make monthly written reports to the Board of Trustees of all money collected by him or her.
- (B) The reports shall be filed and the money collected paid to the village not later than the tenth of the month following the collection.  
(Ord. 30, passed 8-10-1971)

### **§ 30.24 ITEMIZED STATEMENT.**

All required reports shall include an itemized collection, the name of the person paying and the date of the payment.  
(Ord. 30, passed 8-10-1971)

### **§ 30.25 PROCEEDINGS.**

- (A) All actions brought to enforce any village ordinances shall be brought in the name of the village as plaintiff.
- (B) No prosecution, conviction or acquittal for the violation of an ordinance is a defense to any other prosecution of the same party for other violation of an ordinance, although different causes of action existed at the same time and, if united, would have exceeded the jurisdiction of the court.  
(Ord. 30, passed 8-10-1971; Ord. passed 11-12-1981)

### **§ 30.26 PENALTIES; SENTENCE AND THE LIKE; APPEAL; PROCEDURE.**

(A) Every person convicted of a violation of any village ordinance shall be punished by a fine of not more than \$500, or by imprisonment for not more than 90 days, or both fine and imprisonment, at the discretion of the Municipal Court, unless otherwise expressly provided by ordinance or state law.

(B) The Municipal Court may, upon entry of a plea of guilty or judgment of conviction:

(1) Sentence the defendant to not more than 90 day imprisonment or a fine not exceeding \$500 or both;

(2) Suspend in whole or part the execution of the sentence; and/or

(3) Place the defendant on probation for a period not exceeding one year on terms and conditions the Court deems best, or both. 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, and that the defendant's liability for any fine or other punishment imposed fully discharged upon successful completion of the terms and conditions of probation.

(C) The plaintiff or defendant may appeal to the District Court from the judgment within 15 days after judgment and sentence is rendered in the Municipal Court.

(D) In any action of the violation of any ordinance in which an arrest has not been made, a warrant for the arrest of the defendant may issue in the first instance upon the affidavit of any person making a complaint that he or she has reasonable grounds to believe the party charged is guilty. Any person arrested upon the warrant shall, without unnecessary delay, be taken before the Municipal Judge to be tried for the alleged offense or be allowed to post an appropriate bond. In cases involving violation of any municipal ordinance not amounting to a breach of the peace, a citation or summons shall be issued requiring the party charged to appear before the Municipal Magistrate Court at a time fixed in a citation. Upon the failure of the party so charged to appear, a warrant for his or her arrest shall forthwith issue by the municipal judge for the offense specified in the citation or summons, commanding that the party charged shall be arrested and proceedings had as in the case when arrest is made upon a warrant issued upon affidavit as herein above provided.

(1) Any person upon whom any fine or penalty is imposed may, upon order of the Court convicting him or her, be committed to the county jail or other place provided by the municipality for the incarceration of the offender until the fine or penalty is fully paid.

(2) The municipal court in enforcing obedience to the city ordinances shall also have the power to issue warrants and to issue any other decrees or prescribe other orders and mandates as provided by law.

(E) Any person convicted of violating any municipal ordinance the penalty for which carries a potential jail term shall pay in addition to any fine or other sentence, a \$20 corrections fee to the Municipal Judge.

(F) (1) Any person convicted of violating any municipal ordinance, the penalty for which carries a potential jail term, or any ordinance related to the operation of a motor vehicle shall pay to the Municipal Court, in addition to any fine or other sentence, a \$3 Judicial Education fee.

(2) All money collected pursuant to this division shall be remitted monthly to the New Mexico Judicial Education Center for credit to the Judicial Education fund and shall be used for the education and training, including production of bench books and other written material, of Municipal Judges and other Municipal Court personnel.

(Ord. 30, passed 8-10-1971; Ord. passed 11-12-1981; Ord. 73-2003, passed 7-9-2009)

## **VOLUNTEER FIRE DEPARTMENT**

### **§ 30.40 ESTABLISHMENT.**

There is hereby establish the Village Volunteer Fire Department as a functioning part of the village.

(Ord. 35, passed 9-26-1972)

### **§ 30.41 CONTROL.**

The Fire Department shall be a functional and operational part of the village, operating under its own established by-laws.

(Ord. 35, passed 9-26-1972)

### **§ 30.42 OFFICERS; MEMBERSHIP; VACANCIES.**

(A) The Fire Department will elect its own Chief and Assistant Chiefs and other officers as required. The election of officers is to be held annually.

(B) The Chief shall be the officer highest in command and next in command shall be the Assistant Chief and, in the absence of both, the next officer in rank, whom the Chief shall designate, shall assume command of the Department.

(C) The Fire Department shall consist of a Chief, Assistant Chiefs, officers and as many volunteer firefighters as the Department deems necessary to perform its duties. The Volunteer Fire Department as existing shall be the Fire Department under this subchapter.

(D) All vacancies in the Department shall be filled by the members of the Department by election. The Fire Department will establish a committee which will interview and make recommendations to the Department of new members.

(Ord. 35, passed 9-26-1972)

### **§ 30.43 FINANCE.**

The Fire Department will be financed by the village. The Chief of the Department will make and submit an annual budget of operating expenses.

(Ord. 35, passed 9-26-1972)

### **§ 30.44 REMOVAL.**

The by-laws of the Fire Department will contain regulations and procedures for the removal of any member of the Department.  
(Ord. 35, passed 9-26-1972)

#### **§ 30.45 RULES OF DEPARTMENT.**

The Fire Department will adopt by-laws, rules and regulations, not inconsistent with the ordinances or laws of the state, as the members deem advisable, but by-laws, rules and regulations, or changes in by-laws, rules and regulations, before being effective, shall be reviewed and approved by the Council.  
(Ord. 35, passed 9-26-1972)

#### **§ 30.46 DUTIES OF DEPARTMENT.**

(A) The Fire Department shall be under the control and direction of the Chief of the Fire Department or, in his or her absence, shall be under the control and direction of the next ranking officer.

(B) Upon an alarm of fire, the members of the Fire Department shall proceed immediately to the place of same under the direction of the Chief or his or her assistants, and use the apparatus, in the most effective manner until the fire is extinguished and shall not move therefrom except by permission of the officer in command and, on the permission, they shall return the fire apparatus to its place of occupancy.  
(Ord. 35, passed 9-26-1972)

#### **§ 30.47 FIRE HYDRANTS; LOCATION.**

Members of the Department shall commit to memory the location of all fire hydrants and be familiar with the name and location of the streets and avenues of the municipality.  
(Ord. 35, passed 9-26-1972)

#### **§ 30.48 COMPENSATION; ACCIDENTS.**

The compensation of the members of the Fire Department shall be determined after the Fire Department has qualified for state aid.  
(Ord. 35, passed 9-26-1972)

#### **§ 30.49 PROHIBITED ACTIVITIES AGAINST FIREFIGHTERS.**

(A) *Accident policy.* The municipality will provide an accident policy for each firefighter, covering the time at any fire and going to and returning therefrom and pay for the policy out of the Fire Maintenance Fund or the General Fund.

(B) *Interference with firemen.* It shall be unlawful to hinder or interfere with any officer or firefighter in the performance of his or her duty at a fire, going to or returning from a fire or while attending to his or her duties as a member of the Fire Department.

(C) *Refuse to assist.* It shall be unlawful to neglect or refuse to assist the firefighter, in their duties at any fire, when called upon to do so by the Chief of the Fire Department or the officer acting in his or her place.

(D) *Fire Department building.* It shall be unlawful to park or leave standing any wagon, cart, dray, bicycle, motorcycle, automobile, motor vehicle or vehicle of any kind, in front of the Fire Department Building or within 25 feet wither side of the fire hydrants.

(E) *Vehicle at fire.* It shall be unlawful for any wagon, dray, cart, bicycle, motorcycle, automobile, motor vehicle or vehicle of any kind to follow within one block, a fire truck or other fire apparatus on the way to a fire, or to be driven or left standing within 300 feet of a fire.

(F) *Destroy fire property.* It shall be unlawful to cut, deface, destroy or injure, any hose, wires, poles, signal boxes, or any other property or fixtures belonging to or connected with the Fire Department or the fire alarm system, or give or make, or cause to be given or made, any false alarm of fire.

(G) *Hose.* It shall be unlawful to drive or run any automobile or other vehicle, across, along or over any fire hose.

(H) *Unauthorized use of fire-fighting equipment.* It shall be unlawful for any person or persons to use equipment duly assigned to the Fire Department for personal use without the consent of the Board of Trustees.

(Ord. 35, passed 9-26-1972) Penalty, see § 30.99

### **§ 30.50 RIGHT-OF-WAY; EQUIPMENT.**

Fire equipment shall have the right-of-way on all streets in going to a fire and every wagon, cart, dray, bicycle, motorcycle, automobile, motor vehicle or vehicle of any kind on the approach of any fire equipment shall immediately draw up to the curb or the side of the street and remain stationary until after the Fire Department equipment has passed. All pedestrians, except firefighters, along a street on which the fire equipment is passing shall remain on the sidewalks and away from the street intersection.

(Ord. 35, passed 9-26-1972)

### **§ 30.99 PENALTY.**

(A) Whoever violates any provision of this chapter where no other penalty is provided, shall be subject to § 10.99.

(B) Each person violating § 30.01 shall be fined an amount not less than \$10, nor more than \$25, for each violation.

(C) Anyone violating any of the provisions of §§ 30.40 through 30.50 shall, upon conviction, be subject to a fine not exceeding \$100. Whenever the fine and costs imposed for the violation of §§ 30.40 through 30.50 are not paid, the person convicted may be committed to jail until the fine and costs are paid, not exceeding 30 days.

(Ord. 35, passed 9-26-1972; Ord. 107, passed 3-9-2000)

## CHAPTER 31: TAXATION

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Section

31.01	Gross receipts tax
31.02	Supplemental gross receipts tax
31.03	Environmental services gross receipts tax

### § 31.01 GROSS RECEIPTS TAX.

(A) *Imposition of tax.* There is imposed on any person engaging in business in the municipality for the privilege of engaging in business in the municipality an excise tax equal to 1/4% of the gross receipts reported or required to be reported by the person pursuant to the State Gross Receipts and Compensating Tax Act, being NMSA §§ 7-9-1 *et seq.* as it now exists or as it may be amended. The tax imposed under this section is pursuant to the Municipal Local Option Gross Receipts Taxes Act, being NMSA §§ 7-19-10 through 7-19-18, as it now exists or as it may be amended and shall be known as the "municipal gross receipts tax".

(B) *General provisions.* This section 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.

(C) *Specific exemptions.* No municipal gross receipts tax shall be imposed on the gross receipts arising from a business located outside the boundaries of a municipality on land owned by that municipality for which a state gross receipts tax distribution is made pursuant to NMSA § 7-1-6.4(C).

(D) *Dedication.* Revenue from the municipal gross receipts tax will be used for the purpose(s) listed below: General Fund.  
(Ord. 101, passed 7-14-1974)

### § 31.02 SUPPLEMENTAL GROSS RECEIPTS TAX.

(A) *Title.* This section may be cited as the "Village of Williamsburg Municipal Supplemental Gross Receipts Tax Ordinance".

(B) *Purpose.* Pursuant to the Municipal Gross Receipts Tax Act (NMSA §§ 7-19-10 to 7-19-8) which authorizes municipalities to enact a municipal gross receipts tax, it is hereby declared the purpose and intent of the governing body of the village is to enact an ordinance imposing a gross receipts tax of 0.5% in compliance with the Municipal Gross Receipts Tax Act. It is further declared the purpose and intent of this section is to conform to the definitions and applicable gross receipts tax provisions of the State Gross Receipts and Compensating Tax Act, being NMSA §§ 7-9-1 *et seq.* and any interpretation of this section should be in conformity with the applicable sections of the Gross Receipts and Compensating Tax Act.

(C) *Definitions.* For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.



**BUREAU.** The Revenue Division of the Taxation and Revenue Department, the Director of that Division or any employee of the Division exercising authority lawfully delegated to him or her by the Director.

**BUYING or SELLING.** Any transfer of property for consideration or any performance of service for consideration.

**CONSTRUCTION.**

(a) Building, altering, repairing or demolishing in the ordinary course of business any;

1. Road, highway, bridge, parking area or related project;
2. Building, stadium or other structure;
3. Airport, subway or similar facility;
4. Park, trail, athletic field, golf course or similar facility;
5. Dam, reservoir, canal, ditch or similar facility;
6. Sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility;
7. Sewerage, water, gas or other pipeline;
8. Transmission line;
9. Radio or other tower;
10. Water, oil or other storage tank;
11. Shaft, tunnel or other mining appurtenance; or
12. Similar work.

(b) **CONSTRUCTION** also means:

1. Leveling or clearing land;
2. Excavating earth;
3. Drilling wells of any type, including seismograph shot holes or core drilling; or
4. Similar work.

**ENGAGING IN BUSINESS.** Carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit.

**FINANCIAL CORPORATION.** Any savings and loan association, or any incorporate savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation.

**GROSS RECEIPTS.** The total amount of money or the value of other consideration, received from selling property, from leasing property or from performing services, and includes any receipts from sales of tangible personal property handled on consignment but excludes each discounts allowed and taken, state gross receipts tax payable on transactions for the reporting period and taxes imposed pursuant to the provisions of the County Sales Tax Act, being NMSA §§ 7-21-1 through 7-21-7, County Gross Receipts Tax Act, being NMSA §§ 7-20-1 through 7-20-26, or the Municipal Gross Receipts Tax Act, being NMSA §§ 7-19-1 through 7-19-18, which are payable on transactions for the reporting period and any type of time-price differential.

(a) In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, **GROSS RECEIPTS** means the reasonable value of the property or service exchanged.

(b) When the sale of property or service is made under any type of charge, conditional or time sales contract or the leasing of property is made under a leasing

contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers his or her interest in any such contract to a third person, he or she shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential.

(c) **GROSS RECEIPTS.** For the purposes of the business of buying, selling or promoting the purchase, sale or leasing, as factor, agent or broker, on a commission or fee basis, of any property, service, stock, bond or security, includes only the total commissions or fees derived from the business;

**GROSS RECEIPTS** also includes amounts paid by members of any cooperative association or similar organization for sales or leases of personal property or performance of services by the organization.

**LEASING.** Any arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property.

**MANUFACTURING.** Combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction.

**MUNICIPALITY.** The Village of Williamsburg.

**MUNICIPAL GROSS RECEIPTS TAX.** The municipal gross receipt tax imposed by the village Municipal Gross Receipts Tax Ordinance.

**PERSON.**

(a) Any individual, state, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(b) The United States or any agency or instrumentality thereof, the state or any political subdivision thereof.

**PROPERTY.** Real property, tangible personal property, licenses, franchises, patents, trademarks and copyrights. Tangible personal property includes electricity.

**SERVICE.** All activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling property. In determining what is a service, the intended use, principal objective of the contracting parties shall not be controlling. **SERVICE** includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. However, sales of tangible personal property that will become an ingredient or component part of a construction project to person engaged in the construction business are sales of personal tangible property.

**USE** or **USING.** Includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside the state.

(D) *Imposition of tax; rate; presumption of taxability.*

(1) There is hereby imposed on any person engaging in business in the municipality for the privilege of engaging in business in the municipality an excise tax to be referred to as "municipal gross receipts tax". The rate of the tax shall be equal to 0.5% of the gross receipts of the person engaged in business.

(2) To prevent evasion of the municipal gross receipts tax and to aid in its administration, it is presumed that all receipts of a person engaging in business within the municipality are subject to the municipal gross receipts tax.

(E) *Deposit of proceeds.* All revenues distributed to the municipality by the Bureau pursuant to the provisions of the Municipal Gross Receipts Tax Act shall be deposited into the General Fund of the municipality, unless otherwise specified herein.

(F) *Separately stating the municipal gross receipts tax.* When the municipal gross receipts tax is stated separately on the books of the seller or lessor, and if the total amount of tax that is stated separately on transactions reportable within one reporting period is in excess of the amount of municipal gross receipts tax otherwise payable on the transactions on which the tax was stated separately, the excess amount of tax stated on the transactions within that reporting period shall be included in gross receipts.

(G) *Date payment due.* The taxes imposed by this section are to be paid on or before the twenty-fifth day of the month following the month in which the taxable event occurs or as otherwise authorized by the Bureau.

(H) *Exemptions.*

(1) No municipal gross receipts tax shall be imposed on the gross receipts arising from:

(a) The transmission of messages by wire or other means from one point within the municipality to another point outside of the municipality;

(b) 1. Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

2. A business located outside the boundaries of a municipality on land owned by that municipality for which a gross receipts tax distribution is made pursuant to NMSA § 7-1-1 *et seq.*

(2) Exempted from the municipal gross receipts tax are those receipts exempted in divisions (H)(2)(a) through (w) below.

(a) 1. *Governmental agencies.* Exempted from the municipal gross receipts tax are the receipts of the United States or any agency or instrumentality thereof or the state of New Mexico or any political subdivision thereof.

2. Receipts from the sale of gas, water or electricity by a utility owned or operated by a county, municipality or other political subdivision of the state are not exempted from the municipal gross receipts tax.

(b) *Certain nonprofit facilities.* Exempted from the municipal gross receipts tax are the receipts of non-profit entities from the operation of facilities designed and used for providing accommodations for retired elderly persons.

(c) *Wages.* Exempted from the municipal gross receipts tax are the receipts of employees from wages, salaries, commission or from any other form of remuneration for personal services.

(d) *Agricultural products.*

1. Exempted from the municipal gross receipts tax are the receipts of growers, producers, trappers or nonprofit marketing associations from selling livestock, live poultry, unprocessed agricultural products, hides or pelts. Persons engaged in the business of buying and selling wool or mohair or of buying and selling livestock on their own account are producers for the purposes of this section.

2. Receipts from selling dairy products at retail are not exempted from the municipal gross receipts tax.

(e) *Livestock feeding.*

1. Exempted from the municipal gross receipts tax are the receipts of any person derived from feeding or pasturing livestock.

2. Receipts derived from penning or handling livestock prior to sale are receipts derived from feeding livestock for the purposes of this section.

(f) *Banks and financial corporation.* Exempted from the municipal gross receipts tax are the receipts of banks and financial corporations from selling or leasing property or services in the course of their regular banking and financial corporation functions.

(g) *Vehicles.* Exempted from the municipal gross receipts tax are the receipts from selling vehicles on which a tax is imposed and on vehicles subject to registration under NMSA § 66-1-1 *et seq.*

(h) *Insurance companies.* Exempted from the municipal gross receipts tax are the receipts of insurance companies or any agent thereof from premiums.

(i) *Dividends and interest.* Exempted from the municipal gross receipts tax are the receipts received as interest on money loaned or deposited, receipts received as dividends or interest from stocks, bond or securities or receipts from the sale of stocks, bonds or securities.

(j) *Fuel.* Exempted from the municipal gross receipts tax are the receipts from selling and the use of gasoline or special fuel on which the tax imposed by NMSA §§ 7-16A-4 or 7-16A has been paid and not refunded.

(k) *Occasional sale of property or services.* Exempted from the municipal gross receipts tax are the receipts from the isolated or occasional sale of or leasing of property or a service by a person who is neither regularly engaged nor holding himself or herself out as engaged in the business of selling or leasing the same or similar property or service.

(l) *Certain organizations.* Exempted from the municipal gross receipts tax are the receipts of organizations that demonstrate to the Bureau that they have been granted exemption from the federal income tax by the United States Commissioner of Internal Revenue as organizations described in 26 U.S.C. § 501(c)(3), as amended or renumbered. This section does not apply to receipts derived from an unrelated trade or business as defined in 26 U.S.C. § 513, as amended or renumbered.

(m) *Resale activities of an armed forces instrumentality.* Exempted from the municipal gross receipts tax are the receipts from selling tangible personal property and the use of property by any instrumentality of the Armed Forces of the United States engaged in resale activities.

(n) *Oil and gas or mineral interest.* Exempted from the municipal gross receipts tax are the receipts from the sale of oil, natural gas or mineral interest.

(o) *Persons subject to Oil and Gas Emergency School Tax Act.*

1. When a privilege tax is imposed by the Oil and Gas Emergency School Tax Act, being NMSA §§ 7-31-1 *et seq.*, the provisions of the act shall apply and determine the full measure of tax liability for the privilege of engaging in the business stated in the act, and no provisions of this section shall apply to or create a tax liability for the privilege; except that, any person engaging in business of severing oil, natural gas or liquid hydrocarbons from the soil of the state, who sells oil, natural gas or liquid hydrocarbons other than for subsequent resale in the ordinary course of business or for use as an ingredient or component part of a manufactured product is subject to this section as to those sales, as well as to the Oil and Gas Emergency School Tax Act.

2. No provision of this section shall apply to the storage of oil, natural gas or liquid hydrocarbons, individually or any combination thereof, or to the use of the products for fuel in the operation of a "production unit" as defined by the Oil and Gas Emergency School Tax Act.

(p) *Refiners and persons subject to Natural Gas Processors Tax Act.*

1. When a privilege tax is imposed by the Natural Gas Processors Act, the provisions of the act shall apply and determine the full measure of tax liability for the privilege of engaging in the business stated in the act and no provision of this section shall apply to or create a tax liability for such privilege, except that any producer or processor of natural gas or liquid hydrocarbons who sells natural gas or liquid hydrocarbons other than for subsequent resale in the ordinary course of business or for use as an ingredient or component part of a manufactured product is subject to this section as to those sales, as well as to the Natural Gas Processors Tax Act.

2. No provision of this section shall apply to the storage or use of oil, natural gas or liquid hydrocarbons, individually or any combination thereof, when stored or used by a "processor", as defined by the Natural Gas Processors Tax Act, or by a person engaged in the business of refining oil, natural gas or liquid hydrocarbons, who stores or uses the oil, natural gas or liquid hydrocarbons in the regular course of his or her refining business.

(q) *Persons subject to Resources Excise Tax Act.* When a privilege tax is imposed by the Resources Excise Tax Act, the provisions of the act shall apply and determine the full measure of tax liability for the privilege of engaging in the business stated in the act and no provision of this section shall apply to or create a tax liability for the privilege except in the same manner as is provided in NMSA § 72-16A-27 in regard to the State Gross Receipts and Compensating Tax Act, being NMSA §§ 7-9-1 *et seq.*

(r) *Oil and gas consumed in the pipeline transportation of oil and gas products.* Exempted from the municipal gross receipts tax are receipts from the sale of oil, natural gas, liquid hydrocarbon or any combination thereof consumed as fuel in the pipeline transportation of the products.

(s) *Fees from social organization.*

1. Exempted from the gross receipts tax are the receipts from dues and registration fees of nonprofit social, fraternal, political, trade, labor or professional organizations and business leagues.

2. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section.

**DUES.** Amounts that a member of an organization pays at recurring intervals to retain membership in an organization where such amounts are used for the general maintenance and upkeep of the organization; and

**REGISTRATION FEES.** Amounts paid by persons to attend a specific event sponsored by an organization to defray the cost of the event.

(t) *Purses and jockey remuneration at state race tracks.* Exempted from the municipal gross receipts tax are the receipts of horsepersons, jockeys and trainers from purses at state horserace tracks subject to taxes levied under NMSA § 60-1A-1 *et seq.*

(u) *Religious activities.* Exempted from the municipal gross receipts tax are the receipts of a minister of a religious organization, which organization has been granted an exemption from federal income tax by the United States Commissioner of Internal Revenue as

an organization described in 26 U.S.C. § 501(c)(3), as amended or renumbered, from religious service provided by the minister to an individual recipient of the service.

(v) *Theatrical and television films and tapes.* Exempted from the municipal gross receipts tax are the receipts from the leasing or licensing of theatrical and television films and tapes of any kind.

(w) *Temporary provisions.* Exempted from the municipal gross receipts tax are receipts from contracts entered into prior to the 4-10-1975 which do not permit an increase in price to cover the municipal gross receipts tax and which are registered with the bureau of revenue as provided by the Commissioner. The receipts shall be taxed according to the laws existing prior to 4-10-1975.

(I) *Nontaxable transaction certificates, farmers' and ranchers' statements and other evidence required to entitle person to deductions.*

(1) All nontaxable transaction certificates executed by buyers or lessees should be in the possession of the seller or lessor for nontaxable transactions at the time the nontaxable transactions occur. If the seller or lessor is not in possession of these nontaxable transaction certificates within 60 days from the date notice requiring the possession of these nontaxable transaction certificates shall contain the information and be in a form prescribed by the Bureau. Only buyers or lessees who have a registration number or have applied for a registration number and have not been refused one under NMSA § 7-1-12(C) shall execute nontaxable transaction certificates. When the seller or lessor accepts a nontaxable transaction certificate within the required time and in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the properly executed nontaxable transaction certificate shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's or lessor's gross receipts.

(2) Properly executed documents required to support the deductions provided herein should be in the possession of the seller at the time the nontaxable transactions occur. If the seller is not in possession of these documents within 60 days from the date notice requiring the possession of these documents is given to the seller by the Commissioner of Revenue or his or her delegate, deductions claimed by the seller or lessor which require delivery of these documents shall be disallowed. These documents shall contain the information, and be in a form, prescribed by the Bureau. When the seller accepts these documents within the required time and in good faith that the buyer will employ the property or service transferred in a nontaxable manner, the properly executed documents shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's gross receipts.

(3) Notification, as that term is used in this section, is sufficient if the notice is mailed or served as provided in NMSA § 72-13-26(A). Notice by the Commissioner under this section shall not be given prior to the commencement of an audit or the seller from whom the documents are required.

(J) *Suspension of the right to use a nontaxable transaction certificate.* If the Commissioner suspends the right of any person to use nontaxable transaction certificates pursuant to NMSA § 7-9-44, the suspension applies to the use of the certificates under this section.

(K) *Deductions.* In computing the municipal gross receipts tax due, only the receipts specified herein may be deducted. Receipts, whether specified once or several times herein, may be deducted only once from gross receipts.

(1) *Sales to manufacturers.* Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as an ingredient or component part of the product which he or she is in the business of manufacturing.

(2) *Sale of tangible personal property for resale.* Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must resell the tangible personal property either by itself or in combination with other tangible personal property in the ordinary course of business.

(3) *Sale of a service for resale.* Receipts from selling a service for resale may be deducted from gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate. The buyer delivering the nontaxable transaction certificate must separately state the value of the service purchased in his or her charge for the service on its subsequent sale, and the subsequent sale must be in the ordinary course of business and subject to the municipal gross receipts tax.

(4) *Sale of tangible personal property for leasing.* Receipts from selling tangible personal property, other than furniture or appliances the receipts from the rental or lease of which are deductible hereunder and other than mobile homes as defined in NMSA § 64-1-8, may be deducted from gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must be engaged in a business which derives a substantial portion of its receipts from leasing or selling tangible personal property of the type leased. The buyer may not utilize the tangible personal property in any manner other than holding it for lease or sale, or leasing or selling it either by itself or in combination with other tangible personal property in the ordinary course of business.

(5) *Lease for subsequent lease.* Receipts from leasing tangible personal property, other than furniture or appliances the receipts from rental or lease of which are deductible hereunder, and other than mobile homes as defined in NMSA § 64-1-8, may be deducted from gross receipts if the lease is made to a lessee who delivers a nontaxable transaction certificate to the lessor. The lessee delivering the nontaxable transaction certificate may not use the tangible personal property in any manner other than for subsequent lease in the ordinary course of business.

(6) *Sale of tangible personal property to persons engaged in the construction business.*

(a) Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the seller.

(b) The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as:

1. An ingredient or component part of a construction project which is subject to the municipal gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part; or

2. An ingredient or component part of a construction project which is subject to the municipal gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed.

(7) *Sale of construction services to persons engaged in the construction business.* Receipts from selling a construction service may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person performing the construction service.

(a) A construction project which is subject to the municipal gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part; or

(b) A construction project which is subject to the municipal gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed.

(8) *Sale or lease of real property and lease of mobile homes.*

(a) Receipts from the sale or lease of real property, and from the lease of a mobile home as defined in NMSA § 64-1-8 and as provided in division (K)(8)(b) below, other than receipts from the sale or lease of oil, natural gas or mineral interests exempted by division (H)(2) above, may be deducted from gross receipts. However, that portion of the receipts from the sale of real property which is attributable to improvements constructed on the real property by the seller in the ordinary course of his or her construction business may not be deducted from gross receipts.

(b) Receipts received by hotels, motels, rooming houses, campgrounds, guest ranches, trailer parks or similar facilities, except receipts received by trailer parks from the rental of space or a mobile home for a period of at least one month, from lodgers, guests, roomers or occupants are not receipts from leasing real property for the purposes of this section.

(c) Receipts attributable to the inclusion of furniture or appliances furnished as part of a leased or rented dwelling house, mobile homes defined in NMSA § 64-1-8 or apartment by the landlord or lessor may be deducted from gross receipts.

(9) *Sales to governmental agencies.* Receipts from selling tangible personal property, other than nonfissionable metalliferous mineral ore, to the United States or any agency or instrumentality thereof or the state or any political subdivision thereof may be deducted from gross receipts. Receipts from selling tangible personal property, other than nonfissionable metalliferous miner ore, to the Governing Body of a Native American tribe or Native American pueblo for use on Native American reservations or pueblo grants, may be deducted from gross receipts. The portion of the receipts from performing a service as defined in division (K)(8)(c) above which reflects the value of tangible personal property utilized or produced in performance of the service is not deductible.

(10) *Transactions in interests commerce.* Receipts from transactions in interstate commerce may be deducted from gross receipts to the extent that the imposition of the municipal gross receipts tax would be unlawful under the United States Constitution.

(11) *Interstate transportation and services in interstate commerce.*

(a) Receipts from transporting persons or property from one point to another in the state may be deducted from gross receipts when such persons or property, including any special or extra service reasonably necessary in connection therewith, are being transported in interstate or foreign commerce under a single contract.



(b) Receipts from handling, storage, drayage or packing of property or any other accessorial services on property, which property has moved or will move in interstate or foreign commerce, when the services are performed by a local agent for a carrier or a carrier, and when the services are performed under a single contract in relation to transportation services, may be deducted from gross receipts.

(12) *Sale of certain services to an out-of-state buyer.*

(a) Receipts from performing a service, other than a legal, accounting or architectural service, may be deducted from gross receipts if the sale of the service is made to a buyer who delivers to the seller either a nontaxable transaction certificate or other evidence acceptable to the commissioner that the transaction does not contravene the conditions set out in division (K)(12)(c) below.

(b) The buyer delivering the nontaxable transaction certificate or other evidence acceptable to the commissioner must not contravene the conditions set out in division (K)(12)(c) below.

(c) Receipts from performance of a service shall not be subject to the deduction provided in this section if the buyer of the service, any of his or her employees or any person in privity with him or her:

1. Makes initial use of the product of the service in the state;
2. Takes delivery of the product of the service in the state; or
3. Concurrent with the performance of the service, has a

regular place of work in the state or spends more than brief and occasional periods of time in the state and:

a. Has any communication in state-related, or in any way to the subject matter, performance or administration of the service, with the person performing the service; or

b. Himself or herself performs work in the state related to the subject matter of the service.

(13) *Feed; fertilizers.* Receipts from selling feed for livestock, fish raised for human consumption, poultry or for animals raised for their hides or pelts, seeds, roots, bulbs, plants, soil conditioners, fertilizers, insecticides, fungicides or weedicides or water for irrigation purposes may be deducted from gross receipts if the sale is made to a person who states in writing that he or she is regularly engaged in the business of farming, ranching or the raising of animals for their hides or pelts. Receipts of auctioneers from selling livestock or other agricultural products at auction may also be deducted from gross receipts.

(14) *Warehousing, threshing, harvesting, growing, cultivating and processing agricultural products.*

(a) Receipts from warehousing grain or other agricultural products may be deducted from gross receipts.

(b) Receipts from threshing, cleaning, growing, cultivating or harvesting agricultural products, including the ginning of cotton or processing for growers, producers or nonprofit marketing associations of other agricultural products raised for food and fiber, including livestock, may be deducted from gross receipts.

(15) *Sales to certain organizations.* Receipts from selling tangible personal property, other than metalliferous mineral ore, to organizations that have been granted exemption from the federal income tax by the United States Commissioner of Internal Revenue as organizations described in 26 U.S.C. § 501(c)(3), as amended or renumbered, may be deducted

from gross receipts if the sale is made to an organization that delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must employ the tangible personal property in the conduct of functions described in 26 U.S.C. § 501(c)(3) and must not employ the tangible personal property in the conduct of an unrelated trade or business as defined in 26 U.S.C. § 513, as amended or renumbered. Receipts from selling tangible personal property that will become an ingredient or component part of a construction project are not receipts from selling tangible personal property for purposes of this section.

(16) *Sales to banks and financial corporations.* Receipts from selling tangible personal property, other than metalliferous mineral ore, to banks and financial corporations who employ the tangible personal property in their regular banking and financial corporation functions may be deducted from gross receipts.

(17) *Agricultural implements; aircraft; vehicles that are not required to be registered.* Fifty percent of the receipts from selling agricultural implements, farm tractors, aircraft or vehicles that are not required to be registered under the Motor Vehicle Code, NMSA §§ 66-1-1 *et seq.*, may be deducted from gross receipts. Any deduction allowed under division (K)(7) above must be taken before the deduction allowed by this section is computed.

(18) *Publication sales.*

(a) Receipts from publishing newspapers or magazines, except from selling advertising space may be deducted from gross receipts.

(b) Receipts from selling magazines at retail may not be deducted from gross receipts.

(19) *Newspaper sales.* Receipts from selling newspapers, except from selling advertising space, may be deducted from gross receipts.

(20) *Chemicals and reagents.* Receipts from selling chemicals or reagents to any mining, milling or oil company for use in processing ores or oil in a mill, smelter or refinery or in acidizing oil wells and receipts from selling chemicals or reagents in lots in excess of ten tons may be deducted from gross receipts. Receipts from selling explosives, blasting powder or dynamite may not be deducted from gross receipts.

(21) *Commissions.* Receipts derived from commissions on sales of tangible personal property which are not subject to the municipal gross receipts tax may be deducted from gross receipts.

(22) *Refunds; uncollectible debts.* Refunds and allowances made to buyers or amounts written off the books as an uncollectible debt by a person reporting municipal gross receipts tax on an accrual basis may be deducted from gross receipts. If debts reported uncollectible are subsequently collected, such receipts shall be included in gross receipts in the month of collection.

(23) *Warranty obligations.* Receipts of a dealer from furnishing goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer of the property may be deducted from gross receipts.

(24) *Administrative and accounting services.* Receipts of a corporation for administrative and accounting services performed by it for a wholly-owned subsidiary corporation upon a nonprofit or cost basis, and receipts from a wholly-owned subsidiary for the joint use or sharing of office machines and facilities upon a nonprofit or cost basis, may be deducted from gross receipts.

(25) *Rental or lease of vehicles used in interstate commerce.* Receipts from the rental or leasing of vehicles used in the transportation of passengers or property for hire in

interstate commerce under regulations or authorizations of any agency of the United States may be deducted.

(26) *Trade-in allowance.* The portion of the receipts of a seller that is represented by a trade-in of tangible personal property of the same type being sold may be deducted from gross receipts.

(27) *Special fuel.* Receipts from the sale of special fuel, as defined in NMSA § 7-16A-2, may be deducted from gross receipts if the purchaser is a bonded special fuel user under NMSA § 7-16A-15.1 who delivers a nontaxable transaction certificate to the seller.

(28) *Sale of prosthetic devices.* Receipts from selling prosthetic devices may be deducted from gross receipts if the sale is made to a person who is licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, chiropractic or professional nursing and who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must deliver the prosthetic device incidental to the performance of a service and must include the value of the prosthetic device in his or her charge for service.

(29) *Sale of property used in the manufacture of jewelry.* Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person who states in writing that he or she will use the property so purchased in manufacturing jewelry. The buyer must incorporate the tangible personal property as an ingredient or component part of the jewelry that he or she is in the business of manufacturing. The deduction allowed a seller under this section shall not exceed the sum of \$1,000 during any 12-month period attributable to purchases by a single purchaser.

(30) *Sale of certain services performed directly on product manufactured.* Receipts from selling the service of combining or processing components or material may be deducted from gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must have the service performed directly upon tangible personal property which he is in the business of manufacturing or upon ingredients or component parts thereof.

(31) *Travel agent's commissions paid by certain entities.* Receipts of travel agents derived from commissions paid by maritime transportation companies and interstate airlines, railroads and passenger buses for booking, referral, reservation or ticket services, may be deducted from gross receipts.

(L) *Bureau as agent for collection; municipality liable on refunds.* This municipality hereby appoints the State Bureau of Revenue as its agent to administer and enforce the collection of the municipal gross receipts tax. The Tax Administration Act (NMSA §§ 7-1-1 through 7-1-82) applies to the administration and enforcement of this section. Any refund of other reimbursement which is due a taxpayer under this section is a debt owing to the taxpayer from the municipality. The Bureau may remit the refund or reimbursement to the taxpayer and deduct an equivalent amount from current collections attributable to the municipality. Should current collections not be sufficient to satisfy all refunds and reimbursements that are due and owing, the Bureau is authorized and directed to make the refunds and reimbursements from the amounts of state gross receipts tax otherwise distributable to the municipality under the provisions of NMSA § 7-1-6.4. If the Bureau is unable to otherwise satisfy all refunds and reimbursements that are due and owing, the Bureau shall so advise the municipality, and the municipality shall treat the refunds and reimbursements as extraordinary, nonrecurring debts for which the municipality shall be liable as if it had been a party to the claim for refund or reimbursement, and which shall

be satisfied by additional assessments of the citizens of the municipality or by another legal means. Should the Bureau require it, the municipality will enter into a contract with the Bureau, whose terms are the same as those set out in this section.

(M) *Dedication.* A portion of the municipal gross receipts tax is to be dedicated toward a specific purpose or area of municipal government services listed below as to purpose(s) and amount of dedication.  
(Ord. 60, passed 7-13-1978)

### **§ 31.03 ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX.**

(A) *Imposition of tax.* There is imposed on any person engaging in business in the village for the privilege of engaging in business in the municipality an excise tax equal to 1/16% of the gross receipts reported or required to be reported by the person pursuant to the State Gross Receipts and Compensating Tax Act, being NMSA §§ 7-9-1 *et seq.* as it now exists or as it may be amended. The tax imposed under this section is pursuant to the Municipal Environmental Services Gross Receipts Tax Act as it now exists or as it may be amended and shall be known as the "municipal environmental services gross receipts tax".

(B) *General provisions.* This section hereby adopts by reference all definitions, exemptions and deduction contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

(C) *Specific exemptions.* No municipal environmental services gross receipts tax shall be imposed on the gross receipts arising from:

(1) The transmission of messages by wire or other means from one point within the municipality to another point outside the municipality;

(2) Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

(3) A business located outside the boundaries of a municipality on land owned by that municipality for which a gross receipts tax distribution is made pursuant to NMSA § 7-1-6.4(C).

(D) *Dedication.* Revenue from the municipal environmental services gross receipts tax will be used for the purpose(s) for the acquisition, construction, operation and maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities.  
(Ord. 98, passed 3-14-1991)

## **CHAPTER 32: CIVIL PREPAREDNESS**

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### Section

32.01	Department of Civil Preparedness; created
32.02	Purpose of organization
32.03	Coordinator
32.04	Funds

**§ 32.01 DEPARTMENT OF CIVIL PREPAREDNESS; CREATED.**

There is hereby established under the executive branch of the government of the village, in accordance with NMSA § 12-10-5 (being Laws 1959, Chapter 190, as amended), a Department of Civil Preparedness, which shall consist of:

- (A) A Coordinator of Civil Preparedness who shall be appointed by the Mayor of the village with the concurrence of the Village Council and subject to approval by the State Director;
  - (B) Such additional professional and administrative staff personnel as may be required to effectively carry out the civil preparedness program; and
  - (C) All other city officers and employees, together with those volunteer forces enrolled to aid them during periods of emergency, shall be considered as part of the Civil Preparedness Organization of the village.
- (Ord. 79, passed 5-10-1984)

**§ 32.02 PURPOSE OF ORGANIZATION.**

The purpose of the Civil Preparedness Organization is to coordinate the efforts of all municipal agencies and employees and non-governmental agencies to prepare for, and function in the event of emergencies endangering lives and property of the citizens of the village. It shall be the duty of the organization to coordinate the development of plans for the effective employment of municipal resources to protect the lives and health of the citizens of the village and the private and public property therein from the effects of natural- or human-caused disasters, including acts of war, and to coordinate the implementation of the plans during periods of emergency. The plans shall be coordinated with those of the county, and in consonance with the state civil preparedness plans.

(Ord. 79, passed 5-10-1984)

**§ 32.03 COORDINATOR.**

(A) The Civil Preparedness Coordinator shall be the executive head of the Department of Civil Preparedness and shall be responsible to the Mayor for the organization, administration and operation of the civil preparedness program of the village. The Coordinator shall, action for the Mayor, coordinate the civil preparedness activities of all municipal departments and agencies and non-governmental agencies, and shall maintain liaison with and cooperate with the civil preparedness agencies of the federal government, the state and the other political subdivisions therein.

(B) The Coordinator shall have all necessary authority to act for the government of the village in all matters pertaining to civil preparedness, including the obligation of municipal funds as may be appropriated for civil preparedness purposes. He or she shall develop an organizational structure for the department, and is authorized to make appointments to fill the positions established therein, subject to the approval of the Village Board.

(Ord. 79, passed 5-10-1984)

## **§ 32.04 FUNDS.**

(A) Funds for necessary expenses of the Department of Civil Preparedness, including salaries for approved paid positions, may be made available through appropriations by the Village Council in accordance with NMSA § 12-10-7.

(B) The Coordinator may prepare and submit to the Council an annual proposed budget for civil preparedness expenditures, and may indicate therein those amounts eligible for matching funds under the Federal Civil Preparedness Assistance Programs.

(C) Civil Preparedness funds may be obligated by the Coordinator in coordination with the village only in the amounts appropriated and for the purpose authorized by the Village Council and as approved by DFA, Local Government Division.  
(Ord. 79, passed 5-10-1984)

# **TITLE V: PUBLIC WORKS**

## Chapter

**50. REFUSE**

**51. SEWERS; SEPTIC TANKS**

**52. INDUSTRIAL WASTES**

## **CHAPTER 50: REFUSE**

### Section

50.01	Title
50.02	Definitions
50.03	Prohibited acts
50.04	Refuse containers and other requirements
50.05	Collection of refuse
50.06	Frequency of collection
50.07	Collection fees and payments
50.08	Rules and regulations
50.09	Liability
50.10	Failure to pay; grievance procedure citations
50.11	Liens
50.12	Effective date
50.99	Penalty

## **§ 50.01 TITLE.**

This chapter is entitled the "Williamsburg Refuse Control Ordinance".  
(Ord. 61, passed 2-10-2005)

## **§ 50.02 DEFINITIONS.**

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

**PERSON.** Any individual, firm, partnership, corporation, cooperative, association or any other entity owning, operating, controlling or inhabiting any house, residence, shop, establishment or any other place of business within the village corporate limits.

**PREMISES.** Any property within the village corporate limits adaptable for human occupancy or on which refuse is accumulated.

**REFUSE.** Any garbage, rejected or waste food, offal, swill, carrion, ashes, dirt, slop, waste paper, rubbish, waste or unwholesome material of any kind.

**VILLAGE.** The Village of Williamsburg, its duly authorized agents, contractors, employees or licensees.

(Ord. 61, passed 2-10-2005)

## **§ 50.03 PROHIBITED ACTS.**

(A) *Accumulation of refuse.* No person shall collect or accumulate or permit collection or the collection or accumulation of any refuse within the village, except during intervals between regular refuse collections.

(B) *Deposit, dumping or burial of refuse.* No person shall deposit, dump or bury any refuse on either private or public property within the village.

(C) *Burning of refuse.* No person shall burn refuse within the village.

(Ord. 61, passed 2-10-2005) Penalty, see § 50.99

## **§ 50.04 REFUSE CONTAINERS AND OTHER REQUIREMENTS.**

(A) (1) Every person shall be provided, upon his or her premises, one 90-gallon Kart with tight fitting cover. Additional Kart may be provided for an additional fee.

(2) Every person shall be provided, upon his or her commercial property, a receptacle of sufficient size to hold refuse created upon the premises between refuse collections.

(B) All refuse receptacles shall be kept in a clean and sanitary condition by the person using the same; shall be tightly covered at all times except when depositing refuse therein; and shall be proof against flies, rodents and other animals.

(C) Cardboard, corrugated paper, fiber or wooden containers shall be broken up, collapsed and tied in bundles which shall not exceed 50 pounds in weight or 48 inches in length. Tree limbs and other vegetation shall be cut into lengths not over 48 inches and tied in bundles not exceeding two feet in diameter or 50 pounds in weight.

(D) On refuse collection days, refuse receptacles and bundles of refuse shall be placed on the street in front of the premises or on the alley, depending upon where the refuse collector normally makes his or her collection run.

(Ord. 61, passed 2-10-2005) Penalty, see § 50.99

#### **§ 50.05 COLLECTION OF REFUSE.**

(A) The village or its duly authorized agent(s) shall have the exclusive right to gather and collect refuse within the village.

(B) No person other than the village or its duly authorized agents(s) shall collect or convey through, over or under any street or alley, any refuse for other than himself or herself.

(C) The Village Governing Body shall provide for the collection of refuse by one or more of the following methods:

- (1) Designation, appointment or employment of a refuse collector;
- (2) Licensing one or more persons to engage in refuse collection; and/or
- (3) Contracting with any person(s) or company for refuse collection.

(Ord. 61, passed 2-10-2005) Penalty, see § 50.99

#### **§ 50.06 FREQUENCY OF COLLECTION.**

(A) Residential premises: Once a week unless two persons or less reside in the household, in which case pick up shall be twice a month

(B) Commercial premises: Twice each week, if required.

(Ord. 61, passed 2-10-2005)

#### **§ 50.07 COLLECTION FEES AND PAYMENTS.**

(A) To defray expenses of refuse collection and disposal of refuse, there is hereby assessed against every person owning, controlling or operating any premises within the village a fee for refuse collection service whether or not the person uses the refuse collection service.

(B) A refuse collection service fee shall be charged each month for each residence or residential property on which refuse is accumulated with the village.

(C) A refuse collection service fee shall be charged each month for each commercial establishment within the village. Fee shall be based on the volume of refuse collected, number of pickups weekly, and/or time required to collect the refuse.

(D) The owner of rental property shall be responsible for payment of refuse collection bill.

(E) Refuse collection service fees for residential and commercial premises shall be set by resolution of the village Governing Body or by contract with refuse service.

(Ord. 61, passed 2-10-2005)

#### **§ 50.08 RULES AND REGULATIONS.**



The Village Governing Body may make regulations concerning the collection, removal and disposal of refuse as may be necessary to carry out the provisions of this chapter.  
(Ord. 61, passed 2-10-2005)

#### **§ 50.09 LIABILITY.**

The village, its officials and employees, shall not be liable for any accidents, damages, negligence or neglect of any kind or nature arising from the collection, removal and disposal of refuse by a licensee or contractor. A license or contractor shall carry a minimum of \$100,000/\$300,000 commercial liability insurance and property damage insurance in the amount of \$25,000, acceptable to the village and in compliance with state statutes.  
(Ord. 61, passed 2-10-2005)

#### **§ 50.10 FAILURE TO PAY; GRIEVANCE PROCEDURE CITATIONS.**

(A) If a person served by the village or its agent(s) has a grievance, that person shall not withhold payment of charges due under this chapter, but shall file a written complaint with the Municipal Clerk/Treasurer. The Municipal Clerk/Treasurer shall notify the village or its agent(s) of the complaint and give the village or its agent seven days to either correct the complaint or respond to the complaint in writing. The Governing Body of the village shall schedule a hearing on the complaint within 30 days and send notice of hearing to all parties by registered or certified mail no less than seven days prior to the scheduled hearing date. The Governing Body shall hear the evidence, and grant the appropriate relief concluding ordering the village or its agent(s) to change its practices, ordering the adjustment of amounts paid to the village or its agent(s) or any other remedy that is appropriate.

(B) (1) It is a violation of this chapter for any person to fail to pay fees owed to the village or its agent pursuant to this chapter. If any person fails to pay the fees for over 90 days, the agent shall have the right to discontinue service and file a complaint with the Court Clerk, giving the name, address and amount due on the delinquent account. The Court Clerk will issue a citation requiring the violator to appear in Municipal Court.

(2) Each day charges are due pursuant to this chapter that are unpaid for over 90 days constitutes a separate offense and violation of this chapter.  
(Ord. 61, passed 2-10-2005)

#### **§ 50.11 LIENS.**

In the event any premises shall become subject or liable to any lien under provisions of the NMSA §§ 3-48-1 through 3-48-7, the proper officials are authorized to take such steps as may be proper or necessary for the perfection or foreclosure of the lien.  
(Ord. 61, passed 2-10-2005)

#### **§ 50.12 EFFECTIVE DATE.**

The effective date of this chapter shall be 7-1-1980.  
(Ord. 61, passed 2-10-2005)

**§ 50.99 PENALTY.**

Any person convicted of a violation of this chapter shall be punished by a fine of no less than \$25 for the first offense, \$50 for the second offense, and of not more than \$300 for any subsequent violation of this chapter, or by imprisonment not to exceed 90 days, or both.  
(Ord. 61, passed 2-10-2005)

## **CHAPTER 51: SEWERS; SEPTIC TANKS**

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Section

*General Provisions*

51.01	Title
51.02	Management of sewer system
51.03	Mandatory sewer connections
51.04	New sewer lines and sewer connections
51.05	New customers; notification of sewer connections
51.06	Maintenance and repair costs
51.07	Payment for services; notification by customer
51.08	Hookup or connection charge
51.09	Service charges
51.10	Penalty for nonpayment
51.11	Sewage discharge requirements
51.12	Depositing prohibited materials; tampering with connections; nuisance

*Septic Tanks*

51.25	Definitions
51.26	Connection requirements
51.27	Private subdivision requirements
51.28	Effective date
51.99	Penalty

## **GENERAL PROVISIONS**

**§ 51.01 TITLE.**

This chapter may be cited as the "Village of Williamsburg Sanitary Sewer Ordinance".

(Ord. 72-1981/82, passed 6-14-1982)

### **§ 51.02 MANAGEMENT OF SEWER SYSTEM.**

The management of the sewer system, the care, maintenance, operation and repair or extension therefor, and the connections therewith by private parties, shall be under the jurisdiction of the village. Record of connections made and of those abandoned or shut off, and the name or names of the party or parties connecting or disconnection, and the dates thereof, shall be kept by the Village Clerk/Treasurer.

(Ord. 72-1981/82, passed 6-14-1982)

### **§ 51.03 MANDATORY SEWER CONNECTIONS.**

(A) Effective 1-1-1983, it shall be mandatory that any owner of a building or buildings within the corporate limits of the village which is accessible to a sanitary sewer line located within 100 yards of the premises connect the building or buildings to the sanitary sewer line and pay the connection fee and monthly sewer service charges therefor.

(B) All owners of a building or buildings within the corporate limits of the village, which the building is accessible to a sanitary sewer line located within 100 yards of the premises, shall be assessed at least the minimum monthly residential charge for sewer service as provided in § 51.09, whether or not the premises are connected to the village's sewer system and whether or not they are occupied.

(C) Any person, whether owner, agent or occupant of any building or buildings situated on any lot of land abutting any main lateral or sublateral of the sewer system of the village as presently constructed or hereafter extended, desiring to connect to the sewer system must obtain a permit from the Village Clerk/Treasurer. The permit must state the name of the person, street address, post office box number, telephone number and the name of the person who will do the work. All work done on the installation of the sewer line is at the expense of the person obtaining the permit.

(Ord. 72-1981/82, passed 6-14-1982)

### **§ 51.04 NEW SEWER LINES AND SEWER CONNECTIONS.**

(A) The sewer lines and sewer connections added to the village sewer system shall conform to the design and construction guidelines enumerated in the latest edition of *Recommended Standards for Sewage Works*, written by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers and published by the Health Education Service, P.O. Box 7283, Albany, New York 12224. In addition, new sewer design and construction shall conform to *Addenda to Recommended Standards for Sewage Works* written and published by the Environmental Division, State Health and Environmental Department.

(B) *Specifications.*

(1) Sewer service lines and fittings for residential purposes shall be either three inches or four inches in diameter in size. The only approved lines and fittings permitted for installation are ABS and PVC Schedule 40.

(2) Sewer service line and fittings for commercial purposes shall be four inches or larger in diameter in size, depending upon the type and quantity of commercial waste anticipated, and as approved by the Board of Trustees. Grease and oil traps shall be installed in all commercial facilities for retail or wholesale petroleum products, garages, restaurants or other facilities from which heavy discharge of grease or oil is anticipated. The type and capacity of all traps shall be as approved by the Board of Trustees and each installation shall be located so as to be readily accessible for cleaning and inspection.

(C) *Dual sewer taps.*

(1) A "dual sewer tap" is one connected to a main sewer line in the village, where the sewer line runs onto private property, is connected to one or more residences on that same lot, or which extends through that lot to adjoining lot or lots where it is or may later be connected to other residence or residences.

(2) Dual sewer taps consisting of two separate taps and two sewer lines connected to residences on two lots are permitted provided:

(a) There is no direct access to main sewer line within 100 yards of the lot to which the second line extends; and

(b) The owner of the lot which the dual line first enters conveys to the owner of the adjacent lot to which one sewer line extends, an easement granting permanent permission for the installation, repair and maintenance of the sewer line. Should both lots be owned by the same person(s), an easement shall be conveyed "To Whom It May Concern"; and

(c) Copies of the easements shall be provided the Village Clerk/Treasurer and shall be recorded by the property owner(s) in the office of the County Clerk.

(3) Dual sewer taps consisting of one tap and one sewer line are permitted where the line is connected to more than one residence on the same lot.

(4) Provisions of this section are applicable to the installation of sewer lines and sewer connections on all undeveloped lots or other land area within the corporate limits of the village.

(5) The owner, lessee or occupant of each residence connected to the village's sewer system, whether located on the same or a separate lot, shall be assessed a monthly sewer service charge for each residence.

(Ord. 72-1981/82, passed 6-14-1982)

## **§ 51.05 NEW CUSTOMERS; NOTIFICATION OF SEWER CONNECTIONS.**

(A) Any builder, general contractor, mobile home or trailer dealer or manufacturer, plumber or any other individual, company, corporation, municipality or any other entity, who connects or arranges for the connection of any premises to the village's sewer service shall:

(1) Obtain a sewer connection permit from the Village Clerk/Treasurer; or

(2) Obtain a copy of the sewer connection permit form the person or person for whom the sewer connection is being installed; and

(3) Notify the Village Clerk within five days after completion of a sewer connection to the village's sewer system, by returning to the Village Clerk/Treasurer an executed copy of the pertinent sewer connection permit.

(B) Any property owner, lessee or occupant of any premises within the corporate limits of the village who installs a sewer connection without the services of a licensed plumber is in violation of this subchapter unless that person has obtained a home owner's permit from the Village Clerk/Treasurer. Sewer installation under a home owner's permit is subject to inspection by the State Plumbing Inspector. The property owner, lessee or occupant of any premises connected to the village's sewer system under a home owner's permit shall notify the Village Clerk/Treasurer within five days after completion of a connection to the village's sewer system, by returning to the Village Clerk/Treasurer an executed copy of his or her sewer connection permit.

(Ord. 72-1981/82, passed 6-14-1982)

#### **§ 51.06 MAINTENANCE AND REPAIR COSTS.**

The cost of maintenance and repairs to lateral from the main sewer lines to and including the customer's property shall be paid for by the property owner or resident.

(Ord. 72-1981/82, passed 6-14-1982)

#### **§ 51.07 PAYMENT FOR SERVICES; NOTIFICATION BY CUSTOMER.**

(A) (1) Charges for sewer service to property owners or residents of the village shall be prepared and mailed out by the Utility Department of the City of Truth or Consequences.

(2) Charges shall be in accordance with service charges noted in § 51.09. Payment for the services shall be made at the Utility Department Office of the City of Truth or Consequences.

(B) Any property owner, lessee or occupant of any premises within the village which is connected to the village's sewer system and whose City of Truth or Consequences utility bill does not reflect monthly sewer service charge, shall notify the Village Clerk/Treasurer of this discrepancy (within 30 days after receipt of the first incorrect utility bill).

(C) Any property owner, lessee or occupant of any premises connected to the village's sewer system who has not been billed for sewer service charges shall be assessed the minimum sewer service charge for each month since the sewer connection was installed, plus 1% of penalty per month. This assessment and penalty shall be paid to the Village Clerk/Treasurer, as an exception to provisions of division (A) above.

(Ord. 72-1981/82, passed 6-14-1982)

#### **§ 51.08 HOOKUP OR CONNECTION CHARGE.**

(A) The final hookup or connection charge for those property owners or residents who, during the construction of the sewer system, had a service line installed to their property line from a main lateral or sublateral is \$10 until 10-31-1982 and thereafter \$25.

(B) Effective immediately upon adoption of this subchapter, the hookup or connection charge, when the sewer service line is installed from the main sewer line or bilateral or manhole to the property line shall be the charge charged to the village by the City of Truth or Consequences or a licensed plumbing contractor, which charge shall be passed directly through to the customer, plus a \$10 final connection charge (\$25 after 10-31-1982, as provided above). When this is necessary, the excavation and restoration of the cut in the street, easement or alley, must be done through the direction and approval of the City of Truth or Consequences. A deposit of \$100 shall be made by the customer at the time of the placing of an order and issuance of permit for sewer service, which shall be credited against the expenses as stated in this division. (Ord. 72-1981/82, passed 6-14-1982; Ord. passed 4-11-1985)

#### **§ 51.09 SERVICE CHARGES.**

(A) *Users of city water.* The monthly service charge (subject to the hereinafter stated minimum charge) shall be a flat rate amount, which amount shall be subject to annual review. If the customer is not connected to the sewer system, the minimum monthly charge shall be assessed.

(1) *Residential customers.*

(a) All residential customers shall pay a flat minimum monthly service charge regardless of whether or not the customers are hooked to the sewer system or consume any water.

(b) Effective with the 5-1-1985 billing period, due and payable 6-10-1985, the minimum monthly service shall be \$5.90 for residential customers, subject to annual cost adjustment made by the City of Truth or Consequences. The Village Governing Body shall review production costs annually during budget hearings and shall set the amount of any increase or decrease in rates for the following year at that time. Charges shall be in accordance with service charges noted in § 50.10. Payment for the charges shall be made at the Utility Department Office of the City of Truth or Consequences.

(2) *Business and commercial customers.* The monthly sewer service charge for business or commercial customers shall be as follows:

(a) For each commercial water meter user utilizing the sewer lines and system, the minimum monthly service charge shall be \$8.

(b) The minimum monthly service charges for the commercial users as set forth above shall entitle such users to the use of the village's sanitary sewerage lines and system while consuming 5,000 gallons of water per month. For the use of the village's sanitary sewerage lines and system while consuming an amount of water in excess of 5,000 gallons per month, the service charge shall be made on the basis of the excess water used according to the following:

1. Forty-two cents per 1,000 gallons of additional water used;  
and

2. The Village Governing Body shall review production costs annually during budget hearing and shall set the amount of any increase or decrease in commercial rates for the following year at that time.

(B) *Non-users of city water.* The monthly service charge for customers using wells, or some water source other than the City of Truth or Consequences and who are connected to the

sewer system, shall be \$5.90 per month. The Village Governing Body shall review production costs annually during budget hearing and shall set the amount of any increase or decrease in rates for the following year at that time.

(Ord. 72-1981/82, passed 6-14-1982; Ord. passed 4-11-1985)

#### **§ 51.10 PENALTY FOR NONPAYMENT.**

Date shown on the sewer bill is the reading date. The bill is due and payable by the tenth of the following month. Service may be discontinued if the bill is not paid by the thirtieth day following the due date. A charge of \$10 shall be made for reconnection. When the property owner has failed to pay the sewer service charge within 60 days of the reading date of the bill, a lien shall be placed against the property in accordance with NMSA §§ 3-36-1 through 3-36-7. (Ord. 72-1981/82, passed 6-14-1982)

#### **§ 51.11 SEWAGE DISCHARGE REQUIREMENTS.**

No person shall be permitted to discharge commercial or industrial waste, refuse or sewage into the public sewer system of the village without first obtaining a permit from the village; and the Mayor, before giving his or her approval, shall ascertain whether or not the connections will be detrimental to the sewer system. No commercial or industrial waste refuse, or sewage shall be discharged into the public sewer system until the duly qualified representative or agent of the village has determined beyond reasonable doubt that the waste, refuse or sewage do not contain ingredients, chemicals or other material of such a nature that will not permit the proper, efficient, successful and continuous operating and functioning of the sewage disposal works in a continuous and efficient manner.

(Ord. 72-1981/82, passed 6-14-1982)

***Cross-reference:***

*Industrial Wastes, see Ch. 52*

#### **§ 51.12 DEPOSITING PROHIBITED MATERIALS; TAMPERING WITH CONNECTIONS; NUISANCE.**

(A) Any person who deposits or throws into any sewer line, manhole or drain or inlet any straw, shavings, ashes, rocks, stones, bricks, dead animals or any kind of rubbish or substance which shall or may cause the drain or sewer line to be choked up or stopped;

(B) Who shall willfully tamper with the connections leading to the main lateral of the sewer system, shall shut off any connection properly made or shall reopen any connections which have been discontinued by the proper authorities; or

(C) Who shall discharge sink, tub, bathtub, shower, washing machine or dishwasher onto the ground instead of the sewer system or septic tank shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as prescribed in § 51.99, and in addition shall be liable for all costs for repairing the damage to the sewer system caused by the act.

(Ord. 72-1981/82, passed 6-14-1982)



## SEPTIC TANKS

### § 51.25 DEFINITIONS.

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

**MODIFICATION.** A partial or slight change in form.

**REPAIR.** To restore to a sound or good state after dilapidation or partial destruction.

**SEPTIC TANK SYSTEM.** A tank which is designed and constructed to separate solids from the liquid waste and digest organic matter through a period of detention, together with an absorption field.

**TANK.** A watertight receptacle which receives liquid waste from the sanitary drainage system of a building and in which bacterial assimilation of organic matter takes place.  
(Ord. 58, passed 5-3-1978)

### § 51.26 CONNECTION REQUIREMENTS.

(A) All septic tanks being used up to the time of adoption of this subchapter shall not be affected thereby; provided, the tanks comply with all requirements of the State Environmental Improvement Agency.

(B) After adoption of this subchapter, no septic tank shall be replaced, repaired or modified, or installed on premises accessible to a sanitary sewer line within 100 yards of the premises; however, no person shall be required to cross the private property of another person to make the sewer connections without permission of the owner thereof.

(C) All sewer connections shall be made in accordance with the State Plumbing Code and by a licensed plumber.

(D) Every person owning premises in the village which abuts or adjoins a street or alley along which are located public sanitary sewer lines which are accessible within 100 yards shall make an approved sewer connection with the premises, except as noted in division (C) above.

(E) No person shall occupy any premises after the water supply has been cut off, except when the water supply is from a domestic well or when the water supply is cut off temporarily for the purpose of effecting necessary repairs.

(F) In lieu of a public sewer connection and where no public sanitary sewer line is accessible, a septic tank approved by the State Environmental Improvement Agency shall be permitted.

(G) No person shall maintain, use or operate a privy or cesspool located on premises accessible to a sanitary sewer within 100 yards of the premises, at any time.  
(Ord. 58, passed 5-3-1978)

### § 51.27 PRIVATE SUBDIVISION REQUIREMENTS.



(A) It shall be the duty of every person owning or promoting the sale of lots in any private subdivision, before commencing the laying or construction of a sewer or system of sewers in private streets or across private property in the subdivision, and before replacing, reconstructing, or extending any such sewer line or system of sewers, to file with the Village Clerk/Treasurer a written application for a permit therefor, together with plans in duplicate, showing the location of the sewer or system of sewers, the size and material of pipes, the nature and character of the easements on or over which the same will be built, the location of the outlet connection and the location of other disposal facility to which it is to be connected.

(B) The application and plans shall be approved by the Governing Body of the village and it shall be unlawful for any person to perform or cause to be performed any work of construction or repair upon any such sewer, or system of sewers, until the plans therefor have been approved and a permit issued, as herein provided.

(C) In passing upon the application and plans, the approving authority aforesaid shall give consideration, among other things, to whether the contemplated pipe dimension is sufficient to provide adequate drainage of the type contemplated in the entire watershed in which the sewer or sewer system is located; whether the easements are of a character which will permit entrance by the public authorities for future repairs and replacements; whether the grade at which the system will be built will provide for adequate flow and runoff from the properties to be served by the system without backup or obstruction; whether plans and specifications conform to the general sewage system as laid out in the Master Plan; and whether the sewer or sewer system as a whole will be adequate, useful and efficient.

(D) Plans may be approved hereunder even though the entire system is not to be constructed at one time. Upon approval of the application and plans, a permit shall be issued therefor, one copy of the plans to remain on file with the Village Clerk/Treasurer.

(E) No connection of the sewer or sewer system to any public sewer or other public disposal facility shall be made unless and until special connection permit therefor has been issued in writing and signed by the Village Building Inspector.

(F) The Village Building Inspector shall make inspection of the sewer and sewer system as the work progresses and there shall be no backfill of any sewer line after the pipes have been laid until the inspection is made. The inspection shall be for the purpose of ascertaining that the work is in accordance with the plans approved therefor and the Building Inspector, before issuing the special connection permit shall certify to the Village Clerk/Treasurer in writing his or her final approval and acceptance of the work.

(Ord. 58, passed 5-3-1978) Penalty, see § 51.99

## **§ 51.28 EFFECTIVE DATE.**

If any provision of this subchapter shall be declared void or unconstitutional, the declaration shall not affect the remaining portions of this subchapter.

(Ord. 58, passed 5-3-1978)

## **§ 51.99 PENALTY.**

(A) Whoever violates any provision of this chapter where no other penalty is provided, shall be subject to § 10.99.

(B) Any person convicted of a violation of §§ 51.01 through 51.12 shall be punished by a fine of not more than \$300 or by imprisonment not to exceed 90 days, or both fine and imprisonment.

(C) Every person, firm, corporation, partnership, association or any other legal entity convicted of a violation of §§ 51.25 through 51.28 shall be punished by a fine of not less than \$100 or more than \$300.

(Ord. 58, passed 5-3-1978; Ord. 72-1981/82, passed 6-14-1982)

## CHAPTER 52: INDUSTRIAL WASTES

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### Section

52.01	Title
52.02	Definitions
52.03	Discharge requirements
52.04	Grease, oil and sand traps
52.05	Operation and maintenance
52.06	Control manhole
52.07	Measurements, tests and analyses
52.08	Rate schedule
52.09	Added connections
52.99	Penalty

### § 52.01 TITLE.

This chapter shall be known as the "Industrial Waste Ordinance of the Village of Williamsburg, New Mexico".

(Ord. 45, passed 1-8-1975)

### § 52.02 DEFINITIONS.

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

**B.O.D.** (denoting **BIOCHEMICAL OXYGEN DEMAND**). The quantity of oxygen utilized in the biochemical oxidation of organic matter by *Standard Methods* procedure in five days at 20°C expressed in milligrams per liter (mg/l).

**C.O.D.** (denoting **CHEMICAL OXYGEN DEMAND**). A measure of the oxygen-consuming capacity of organic and inorganic matter present in wastewater, expressed in milligrams per liter (mg/l).

**GARBAGE.** Solid wastes from the preparation, cooking and dispensing of food and from the handling storage or sale of produce.

**INDUSTRIAL LIQUID WASTES.** All waterborne solids, liquids or gaseous wastes resulting from any industrial, manufacturing or food processing operation, or from the development of any natural resource, or any mixture of these wastes with water or domestic sewage as distinct from normal domestic sewage. **INDUSTRIAL PROCESSES** shall include, but are not limited to: ordinance and accessories, food and allied products, tobacco processors, textile mill products, apparel and other fabric products, lumber and wood products, furniture and fixtures, printing or publishing, chemicals and allied products, petroleum refining, rubber or plastic products, leather products, stone clay, glass or concrete products, primary metal industries, fabricated metal products, all types of machinery or equipment, technical instruments, photographic or optical goods, timepieces and miscellaneous manufacturing industries.

**INTERFERENCE WITH WASTEWATER FACILITY.** Any action, condition or combination thereof, which causes degradation of the efficiency of any wastewater facility.

**NORMAL DOMESTIC WASTEWATER.** Waterborne wastes normally discharging from the sanitary conveniences of residential buildings, office buildings, factories, and institutions, which is free of storm surface water and industrial wastes. **NORMAL DOMESTIC WASTEWATER** shall mean normal, or average, for the village.

**pH.** The base 10 logarithm of the reciprocal of the hydrogen ion concentration expressed in moles/liter (M/l), in the sample of liquid.

**PUBLIC SEWER.** Any sewer to which abutting property owners have equal access rights and which is owned or controlled by public authority.

**SANITARY SEWER.** The public portion of a wastewater transportation facility, the admittance to which storm, surface or ground water flows are not intended.

**SETTLABLE SOLIDS.** Those which will settle out of a sample within a preselected time period, expressed in milliliters per liter (ml/l).

**STANDARD METHODS.** Those laboratory procedures defined in the latest edition, at the time of analysis, of the *Standard Methods for the Examination of Water and Wastewater*, as published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

**STORM SEWER.** A sewer carrying storm or surface waters and drainage, but not intended for domestic wastewater or industrial waste flow.

**TRAPS.** Devices for separating sand, silt, grit, mineral material, petroleum solvents, grease or oil from wastewater and shall be of design and capacity approved by the village.

**UNPOLLUTED PROCESS WATER.** Any water or waste emanating from industrial process, which does not contain any of the following: free or emulsified grease or oil, acid or alkali, phenols, substances imparting taste or odor to receiving water, toxic substances or noxious or odorous gases.

**WASTEWATER.** The used water of a community. The used water may be combination of the liquid and waterborne waste flows from residences, commercial building, industries or institutions.

**WASTEWATER FACILITIES.** Includes all pipe, structures, equipment or processed utilized to collect, transport or treat domestic or industrial wastes, or to dispose of treated effluent.

**WASTEWATER TREATMENT WORKS.** A system of devices and structures for treating wastewater. Synonymous with **WASTE TREATMENT PLANT**, **WASTEWATER TREATMENT PLAN** or **SEWAGE PLANT**.

(Ord. 45, passed 1-8-1975)

### **§ 52.03 DISCHARGE REQUIREMENTS.**

(A) No person shall discharge or cause to be discharged into a sanitary sewer any quantities of storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial waste waters.

(B) Storm water and all other unpolluted drainage shall be discharged into facilities specifically designated as storm sewer, or to be natural outlets approved by the Board of Trustees. Industrial cooling water or unpolluted process waters may be discharged into a storm sewer or natural outlet subject to the approval of the Board of Trustees.

(C) No person shall discharge or cause to be discharged into public sewer any of the following:

(1) Gasoline, benzene, naptha, fuel oil or any flammable or explosive liquid, solid or gas;

(2) Water or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes to damage or interfere with any wastewater facility, constitute a hazard to humans or animals, create a public nuisance or make a hazard in the receiving waters of the wastewater treatment works including, but not limited to, cyanides in excess of two mg/l as CN;

(3) Herbicides or pesticides;

(4) Waters or wastes having a pH lower than five and one-half, or corrosive properties which could damage or endanger structures, equipment or personnel of the wastewater facility;

(5) Solid or viscous substances in such quantities or size as to obstruct flow in sewers, or interfere with the operation of the wastewater facility. The substances may include, but are not limited to; ashes, cinders, sand, mud, straw, shavings, metal glass, rags, feathers, fruit or vegetable seeds or rinds, grain, agricultural refuse, tar, glue, paper, plastics, wood, garbage, blood, paunch manure, hair, skin, entrails, bone and the like, whether whole or ground;

(6) (a) Any quantities of these heavy metals:

1. Antimony;
2. Arsenic;
3. Barium;
4. Beryllium;
5. Bismuth;
6. Boron;
7. Cadmium;
8. Chromium (Hexa);
9. Chromium (Tri);
10. Cobalt;
11. Copper;
12. Iron;

13. Lead;
14. Manganese;
15. Mercury;
16. Molybdenum;
17. Nickel;
18. Rhenium;
19. Selenium;
20. Silver;
21. Strontium;
22. Tellurium;
23. Tin;
24. Uranylion; and
25. Zinc.

(b) Dilution of toxic substances or heavy metals is not acceptable. All materials shall be removed from any waste before the flow may be introduced into any public sewer.

(D) No person shall discharge or cause to be discharged into a public sewer, any substance, material, liquid or waste that, at the findings of the Board of Trustees or its designee, could harm or endanger the wastewater or facility's operation, equipment or personnel, could have an adverse effect on the receiving waters, or could endanger life, limb, public or private property, or create a nuisance. In determining the acceptability of discharges, the Board of Trustees or its designee, may consider such factors as nature and capacity of the wastewater facility, degree of treatability of the questionable waste or any other pertinent data. The substances prohibited from discharge into a public sewer under this section shall include, but are not limited to:

(1) Any liquid, vapor or solid having a temperature, at point of discharge into public sewer, higher than 150°F/65°C);

(2) Water or waste containing fats, grease, wax or oils, weather or not emulsified, in concentrations exceeding 100 milligrams per liter (100 mg/l), or substances which could solidify or become viscous at temperatures between 32°F/0°C and 150°F/65°C;

(3) Garbage that has not been adequately shredded or ground. The installation or operation of a garbage grinder of a capacity greater than normal or average for domestic use shall be subject to review and approval by the Board of Trustees or its designee;

(4) Waters or wastes containing strong acid, iron, pickling wastes or concentrated plating solutions. The waste must be completely neutralized to the approval of the Board of Trustees or its designee, before discharge into a public sewer;

(5) Waters or wastes containing reducing substances of any nature which exert an immediate chlorine demand, if the discharge may hinder the achievement of adequate chlorine residuals in the wastewater treatment work's effluent;

(6) Water or wastes containing phenols, or other taste or odor producing substances, in concentrations which, after treatment of the composite sewage, exceed limits established by state or federal regulatory agencies for discharge into receiving waters;

(7) Radioactive isotopes or wastes of the half-life or concentrations as may exceed limits established by state or federal regulatory agencies;

(8) Waters or wastes having a pH in excess of nine and one-half;

(9) Material which exert or cause:

- (a) Unusual concentrations of inert suspended solids, such as fuller's earth, lime slurries or lime residue;
- (b) Unusual concentrations of dissolved solids, such as sodium chloride or sodium sulfate;
- (c) Excessive discoloration, such as dye wastes or vegetable tanning solutions;
- (d) Unusual chemical oxygen demand, biochemical oxygen demand or chlorine requirements in a magnitude as to create a significant load on the wastewater treatment facilities; and
- (e) Slugs or shocks creating such a flow volume or waste concentration as to disrupt the normal functioning of the wastewater facility.

(10) Waters containing substances not amenable to treatment or reduction by the wastewater treatment facility, or that are amenable to treatment only to a degree that the system effluent does not meet the required standards of state or federal regulatory agencies; and

(11) Substances, liquids, materials or wastes that may be prohibited from discharge into a public sewer through regulatory agencies.

(E) (1) If any waters or wastes are discharged, or are proposed to be discharged into the public sewers, which, in the findings of the Board of Trustees or its designee, could harm or endanger the wastewater facility's operation, equipment, or personnel, or have an adverse effect on the receiving waters, or could endanger life, limb, public or private property or create a nuisance, the Board of Trustees may:

- (a) Reject and prohibit the wastes;
- (b) Require pretreatment of the waste to a condition acceptable for discharge into public sewer; or
- (c) Require village control of quantities, rates or times of the discharge.

(2) If the Board of Trustees permits the pretreatment or equalization of waste flows, the design, installation and operation of each facility shall be subject to review and the approval of the Board of Trustees or its designee, the state and shall conform to the requirements of all applicable codes, regulations, ordinances or statutes.

(F) Each industrial waste discharge shall be tested by standard methods at least semi-annually or whenever deemed necessary by the Board of Trustees. The person discharging the industrial waste shall be liable for payment of all cost arising from this testing. At the discretion of the Board of Trustees, the testing may be performed by village forces, state personnel or by an accredited commercial testing laboratory.  
(Ord. 45, passed 1-8-1975) Penalty, see § 52.99

#### **§ 52.04 GREASE, OIL AND SAND TRAPS.**

Grease, oil or sand traps shall be provided by the owner, if, by finding of the Board of Trustees, the traps are necessary for the proper handling of liquid waste containing excessive amounts of grease, or flammable wastes, sand other objectionable ingredients; except that, the traps shall not be required for private living quarters or individual dwelling units. The type and capacity of all traps shall be approved by the Board of Trustees, and each installation shall be located so as to be readily accessible for cleaning and inspection. Grease and oil traps shall be

installed in all new facilities for retail and wholesale petroleum products, garages, restaurants or other facilities from which heavy discharge of grease or oil is anticipated.  
(Ord. 45, passed 1-8-1975)

#### **§ 52.05 OPERATION AND MAINTENANCE.**

Whenever preliminary treatment, flow-equalizing or other special facilities are provided for industrial waste discharge, the facilities shall be satisfactorily and effectively operated and maintained by the owner at his or her expense.  
(Ord. 45, passed 1-8-1975)

#### **§ 52.06 CONTROL MANHOLE.**

(A) The owner of any property from which industrial wastes are discharged into a public sewer shall, when or if required by the Board of Trustees, install a suitable control manhole for the property sewer at a location upstream of the discharge point into public sewer.

(B) The manhole shall be of a design and construction approved by the Board of Trustees, and shall be equipped with the meters and other facilities as may be required for adequate observation, sampling and measurement of the waste flows. The manhole shall be properly installed, operated and maintained by the property owner at his or her expense, and shall be readily accessible to village forces at all reasonable times.  
(Ord. 45, passed 1-8-1975)

#### **§ 52.07 MEASUREMENTS, TESTS AND ANALYSES.**

(A) All measurements, tests and analyses of water and wastes characteristics shall be performed in accordance with the latest edition of the *Standard Methods for the Examination of Water and Wastewater*, as published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

(B) Sampling techniques shall conform to customarily accepted methods, so as to accurately identify the wastewater characteristics, determine the effects upon the wastewater facilities and avoid hazard to life, limb or property. The samples for differing tests and analyses shall be obtained by the optimum means suited to the individual test to be performed.  
(Ord. 45, passed 1-8-1975)

#### **§ 52.08 RATE SCHEDULE.**

(A) The Board of Trustees herewith ordains and establishes a rate schedule for industrial sewer service that assures an equitable basis for cost recovery. The purpose hereof is that the industrial waste contributors shall pay the excess costs incurred by the village in the construction operation and maintenance of wastewater facilities required for adequate treatment of industrial wastes.

(B) The industrial sewer service rate schedule shall be a cost recovery system based upon the following conditions.

(1) Each industrial waste discharge shall be apportioned a base cost related to the proportion of total wastewater facility loading in both volume and strength represented by each industrial waste contribution.

(2) (a) The costs to be recovered shall be those portions allocable to each industrial waste contributor of:

(b) Amortization of the village's indebtedness for the capital cost of the utilized waste contributor of:

1. Cost of operation and maintenance of the utilized wastewater facilities; and

2. All direct or indirect costs required to provide adequate, continuing treatment to industrial wastes.

(3) Any industry which contributes 30% or more in volume or strength of the total wastewater facility loading shall be required to make a substantial prepayment of the capital and other costs necessary to provide the facilities.

(C) (1) An industrial sewer service rate shall be developed and charged against any persons discharging, into the village's sewer system, liquid wastes which are of greater strength or volume than normal, untreated, domestic wastewater.

(2) For purposes of this chapter, ***NORMAL, UNTREATED, DOMESTIC WASTEWATER*** is defined as having maximum annual averages of:

(a) Biochemical oxygen demand not exceeding 280 mg/l;

(b) Chemical oxygen demand not exceeding 560 mg/l;

(c) Settleable solids not exceeding 5.0 ml/l; and

(d) Volume of flow not exceeding 12,000 gallons per month.

(3) For industrial sewer contributors whose waste flows conform to all of the above parameters except volume, the annual industrial sewer service rate shall be the result of:

$$IC=A + KV$$

(4) For all other industrial sewer contributors, the annual industrial sewer service rate shall be the result of:

$$IC= A + KV \left[ \frac{1}{5} = \frac{a(SS-5)}{560} + b \frac{(BOD-280)}{560} \right]$$

by the derivation most applicable to the individual sewer contributor concerned. The definition of the terms of these formulas shall be:

IC= Industrial sewer service charges, dollars per annum.

V= Volume of user's discharge, gallons per year.

SS= Settleable solids of the user's discharge, ml/l.

a= That percentage of the total cost which is attributable to removal of settleable solids.

b= That percentage of the total cost which is attributable to removal of either biochemical oxygen demand or chemical oxygen demand.

A= Basic annual connection charge, dollars per year.

K= Annual charge per unit volume of discharge, dollars per million gallons.

COD= Chemical oxygen demand of that discharge, mg/l.

BOD= Biochemical oxygen demand of that discharge, ml/l.



(Ord. 45, passed 1-8-1975)

**§ 52.09 ADDED CONNECTIONS.**

New sewers and sewer connections added to the village's sewer system shall conform to the design and construction guideline enumerated in the latest edition of *Recommended Standards for Sewage Works*, written by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers. These standards are published by the Health Education Service, P.O. Box 7283, Albany, New York, 12224. In addition, new sewer design and construction shall conform to *Addenda to Recommended Standards for Sewage Works*, as written and published by the State Environmental Improvement Agency.

(Ord. passed 10-14-1970)

**§ 52.99 PENALTY.**

(A) Each violation of the terms of this chapter shall be punishable, upon conviction, by a fine of not more than \$300 or by imprisonment for a term of not more than 90 days, or both. Each day of each violation shall constitute a separate offense. The conviction and punishment of any person for violation of this chapter shall, in no way, excuse or exempt the person from the payment of any fee due or unpaid at the time of the conviction and nothing herein shall prohibit criminal prosecution for violation of any of the terms of this chapter.

(B) All remedies prescribed or liens created hereunder, or under any provisions of law for the collection and enforcement of fees, shall be cumulative, and the use of one or more remedies by the village shall not bar or preclude the use of any other remedy for the purpose of enforcing the provisions of this chapter or any liens created under law. A fee, rate or charge imposed by this chapter shall be a lien, in favor of the village upon the personal or real property of the person or tenancy as utilized in conjunction with, or from which flows, the waste discharge which gave rise to the fee, rate or charge. Any lien shall be imposed, collected, enforced and paid as provided under law, and no property of any person shall be exempt from levy and sale of execution issued for the collection of a judgment for any fee, rate or charge imposed by this chapter.

(Ord. 45, passed 1-8-1975)

## **TITLE VII: TRAFFIC CODE**

Chapter

### **70. TRAFFIC AND PARKING**

## **CHAPTER 70: TRAFFIC AND PARKING**

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Section

70.01 State Uniform Traffic Code adopted

70.99 Penalty

**§ 70.01 STATE UNIFORM TRAFFIC CODE ADOPTED.**

The State Uniform Traffic Ordinance, comprising NMSA §§ 66-8-101 through 66-8-141 inclusive, is herewith adopted by reference, pursuant to NMSA § 3-17-6.  
(Ord. 96., passed 6-10-2004)

**§ 70.99 PENALTY.**

(A) *Title.* This section may be cited as the "Village of Williamsburg Penalty Assessment Program".

(B) *Fines.* As used in the 2004 State Uniform Traffic Ordinance adopted by reference by the village, **PENALTY ASSESSMENT MISDEMEANOR** means violation of any of the following listed section of the State Uniform Traffic Ordinance, for which the listed penalty assessment is established:

<i>Common Name of Offense Penalty Assessment</i>	<i>NMSA Section Violated</i>	<i>Fee</i>
Duty upon striking unattended vehicle	12-4-4	\$50
Duty upon striking fixtures or other property upon a street	12-4-4	\$50
Immediate notice of accident	12-4-6	\$50
Flashing signals	12-5-8	\$15
Crosswalks and safety zones	12-5-13	\$25
Speed regulations; basic speed rule	12-6-1.1	\$15
(1) Up to and including ten miles an hour over the speed limit	12-6-1.2(3)	\$20
(2) From 11 up to and including 15 miles an hour over the speed limit	12-6-1.2(3)	\$40
(3) From 16 up to and including 20 miles an hour over the speed limit	12-6-1.2(3)	\$90
(4) From 21 up to and including 25 miles an hour over speed limit	12-6-1.2(3)	\$140
(5) From 26 up to and including 30 miles an hour over speed limit	12-6-1.2(3)	\$165
(6) From 31 up to and including 35 miles an hour over speed limit	12-6-1.2(3)	\$200
Minimum speed regulations	12-6-1.5	\$15
Overtaking a vehicle on the left	12-6-2.3	\$15

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<i><b>Common Name of Offense Penalty Assessment</b></i>	<i><b>NMSA Section Violated</b></i>	<i><b>Fee</b></i>
Limitations on overtaking a vehicle on the left	12-6-2.4	\$15
Driving left of center	12-6-2.5	\$15
No passing zones and restrictions on passing	12-6-2.7	\$15
Driving on streets landed for traffic	12-6-2.12	\$15
Following too closely	12-6-2.13	\$20
Driving on divided streets	12-6-2.14	\$15
Vehicle approaching or entering intersection	12-6-4.1	\$15
Vehicles turning left at intersection	12-6-4.2	\$15
Vehicle entering stop or yield intersection	12-6-4.3	\$30
Limitations on turning around	12-6-5.5	\$15
Starting parked vehicle	12-6-5.7	\$15
Turning and stopping movements and required signals	12-6-5.8	\$15
Stopping, standing and parking violations	12-6-6.0— 12-6-6.14	\$15
Special stops required	12-6-7	\$15
Stopping for school bus	12-6-7.3	\$30
Failure to yield to emergency vehicle	12-6-7.4	\$25

<i><b>Common Name of Offense Penalty Assessment</b></i>	<i><b>NMSA Section Violated</b></i>	<i><b>Fee</b></i>
Careless driving (1st offense)	12-6-12.4	\$75
Operators and chauffeurs must be licensed	12-6-12.5	\$25
Unlawful use of license (suspended or revoked)	12-6-12.6	\$100
Fleeing or attempting to elude a police officer	12-6-12.7	\$200
Limitations on backing	12-6-12.9	\$20
Prohibited acts while driving	12-6-12.18	\$25
Racing on streets	12-6-12.19	\$100
Parties to unlawful acts	12-6-12.24	\$50
Unhitched trailer (1st offense)	12-6-13.3	\$10
Litterbugging (destructive or injurious material)	12-6-13.5	\$100
Minor in possession of driving (1st offense)	12-6-13.11	\$150
Child passenger restraint (no seat belt child)	12-6-13.12	\$50
Mandatory use of seatbelt	12-6-13.13	\$25
Possession or consumption of alcoholic beverage in open container	12-6-13.14	\$35
Drivers to exercise due care	12-6-14.8	
Eye-protection devices or windshield	12-7-5	\$25

Williamsburg, NM Code of Ordinances

<i>Common Name of Offense Penalty Assessment</i>	<i>NMSA Section Violated</i>	<i>Fee</i>
Vehicles to be in safe condition	12-10-1.2	\$20
When lighted lamps are required	12-10-1.3	\$15
Headlamps on vehicles	12-10-1.5	\$15
Dimming of headlamps	12-10-1.6	\$15
Tail lamps	12-10-1.7	\$15
Mufflers, prevention of noise	12-10-1.10	\$15
Lamp of flag on projection load	12-10-1.11	\$15
Display of current valid registration plate	12-10-4	\$15
Evidence of registration to be signed and exhibited on demand	12-10-5	\$15
Mandatory financial responsibility (1st offense)	12-10-6	\$100
Failure to appear (1st offense)	12-10-7	\$100

(1) The term ***PENALTY ASSESSMENT MISDEMEANOR*** does not include any violation:

(a) Of speeding in excess of 25 miles an hour in excess of the speed limit; or

(b) Which has caused or contributed to the cause of an accident resulting in injury or death to any person.

(2) 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.

(3) In addition to the penalty assessment established for each penalty assessment misdemeanor pursuant to this section, there shall be assessed a penalty assessment fee of \$10 to help defray the cost of local government corrections.

(C) *Penalty assessment misdemeanors; option; effect.*

(1) Unless a warning notice is given, at the time of issuing a citation for the violation or making an arrest for any penalty assessment 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 guilty 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 by mail or in person to the Williamsburg Municipal Court, Traffic Violations Bureau, 309 Veater, PO Box 150, Williamsburg, New Mexico, 87942, within ten days from the violation or arrest for the residents of the state of New Mexico, and within 30 days from the violation or arrest for non-state residents. Payments of penalty assessments are timely if postmarked within the time limits set from the date of the violation or arrest. The Traffic Violations Bureau shall issue a receipt when a penalty assessment is paid by currency, but checks tendered by the violator upon which payment is received are sufficient receipt.

(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 ten days from the date of the violation or arrest for a resident of the state, or within 30 days from the date of the violation or arrest for the nonresidents, 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 the prosecution, the court shall impose penalties as provided by the State Uniform Traffic Ordinance (§ 12-12-1.1) or other law relating to motor vehicles for the particular offense charged, and the schedule of penalty assessments shall not apply.

(2) In addition to the prosecution provided for in division (D)(1) above, it is a misdemeanor for any person who has elected to pay a penalty assessment to fail to do so within ten days from the date of the violation or arrest for residents of the state or within 30 days from the date of the violation or arrest for nonresidents.

(3) The Office of the Municipal Court shall notify the Division of Motor Vehicles of the State 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 to drive until the Office of the 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.  
(Ord. 92, passed 5-12-2005)

## TITLE IX: GENERAL REGULATIONS

### Chapter

- 90. HEALTH AND SAFETY; NUISANCES
- 91. FAIR HOUSING
- 92. ANIMALS

## CHAPTER 90: HEALTH AND SAFETY; NUISANCES

### Section

#### *General Provisions*

- 90.001 Sound-producing brake systems
- 90.002 Gasoline storage
- 90.003 Refuse, water pollution and the like

#### *Fireworks*

- 90.020 Short title
- 90.021 Purpose
- 90.022 Jurisdiction
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### ***Cross-reference:***

*Animals, see Ch. 92*

*Possession of fireworks, see § 130.031*

## **GENERAL PROVISIONS**

### **§ 90.001 SOUND-PRODUCING BRAKE SYSTEMS.**

The use of sound producing brake systems are prohibited within the village.  
(Ord. 108, passed 2-8-2001) Penalty, see § 90.999

#### **§ 90.002 GASOLINE STORAGE.**

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

**CLOSED CONTAINER.** A container so sealed by means of a lid or other device that neither liquid nor vapor will escape from it at ordinary temperatures.

**SAFETY CAN.** An approved container, of not more than five gallons capacity, having a spring closing lid and spout cover and so designed that it will safely relieve internal pressure when subjected to fire exposure.

(B) No person shall store gasoline in amounts in excess of ten gallons within any zone other than commercial within the village. In any event, gasoline must be stored in a closed metal container or safety can.

(C) This section shall become effective on 4-10-1973.  
(Ord. 37, passed 3-28-1973) Penalty, see § 90.999

#### **§ 90.003 REFUSE, WATER POLLUTION AND THE LIKE.**

(A) *Public nuisance.* It is unlawful to cause a public nuisance which 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) *Polluting water.*

(1) It is unlawful to knowingly introduce any object or substance into any body of public water causing it to be offensive or dangerous for human or animal consumption or use. Polluting water constitutes a public nuisance.

(2) For the purpose of this section, **BODY OF WATER** means any public river or tributary thereof, stream, lake, pond, reservoir, acequia, canal, ditch, spring, well or declared or known ground waters.

(C) *Refuse defined.*

- (1) **REFUSE** means any article or substance:
  - (a) Which is commonly discarded as waste; or
  - (b) Which if discarded on the ground will create or contribute to an unsanitary, offensive or unsightly condition.

(2) Refuse includes, but is not limited to, the following items or classes of items: waste foods, waste paper and paper products; cans, bottles or other container; junked household furnishing and equipment; junked parts or bodies of automobiles and other metallic junk or scrap; portions or carcasses of dead animals and collection of ashes, dirt, yard trimmings or other rubbish.

(D) *Unlawful disposal of refuse.* Unlawful disposal of refuse 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 governmental 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 the consent of owner, lessee or occupant thereof.

(E) *Placing injurious substance on public ways.* Placing injurious substances on the streets, alleys or other public ways consists of any person throwing, depositing or placing any glass, bottles, nails, tacks, hoops, wire, cans or any other material or substances upon any streets, alleys or other public ways which cause or which are likely to cause injury to any person, animal or vehicle traveling upon the public highway.

(Ord. 31, passed 8-10-1971) Penalty, see § 90.999

## **FIREWORKS**

### **§ 90.020 SHORT TITLE.**

This subchapter may be referred to as the "Fireworks Control Ordinance" and referenced to the State Fireworks Licensing and Safety Act (NMSA Chapter 60, Article 2C).

(Ord. 106, passed 1-13-2005)

### **§ 90.021 PURPOSE.**

This subchapter is intended to preserve and to protect the general health, safety, welfare and property of the village.

(Ord. 106, passed 1-13-2005)

### **§ 90.022 JURISDICTION.**

This subchapter is in accordance with NMSA §§ 60-2C-7 and limits use of fireworks, except as what is specified in § 90.025.

(Ord. 106, passed 1-13-2005)

### **§ 90.023 DEFINITIONS.**

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

**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.



**AERIAL DEVICES** include skyrocket and bottle rockets, missile-type rockets, helicopters, aerial spinners, Roman candles and mine shells.

**CHASERS.** A paper or cardboard tube venting out the fuse end of the tube that contains no more than 20 grams of chemical composition and travels along the ground, often producing a whistling effect or other noise; and explosive composition not to exceed 50 milligrams may be included to produce a report.

**CHEMICAL COMPOSITION.** All pyrotechnic and explosive composition contained in a fireworks device, but does not include inert materials such as clay used for plugs or organic matter such as rice hulls used for density control.

**COMMON FIREWORKS.** Any fireworks device suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the United States Consumer Product Safety Commission in 16 C.F.R. and that is classified as a class C explosive by the United States Department of Transportation.

**CONE FOUNTAIN.** A cardboard or heavy paper cone containing no more than 50 grams of pyrotechnic composition that has the same effect as a cylindrical fountain. When more than one cone is mounted on a common base, total pyrotechnic composition shall not exceed 200 grams.

**CRACKLING DEVICE.** A sphere or paper tube that contains no more than 20 grams of pyrotechnic composition that produces a shower of colored sparks and sometimes a whistling effect or smoke. The device may be provided with a spike for insertion into the ground or a wood or plastic base for placing on the ground or a wood or cardboard handle to be hand held. When more than one tube is mounted on a common base, total pyrotechnic composition shall not exceed 200 grams.

**DISTRIBUTOR.** Any person, firm or corporation selling display fireworks.

**DISPLAY DISTRIBUTOR.** Any person, firm or corporation selling fireworks to wholesalers and retailers for resale.

**DISPLAY FIREWORKS.** Devices primarily intended for commercial displays that are designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes containing more than 130 milligrams of explosive composition; aerial shells containing more than 40 grams of chemical composition exclusive of life charge; and other exhibition display items that exceed the limits for permissible fireworks.

**EXPLOSIVE COMPOSITION.** Any chemical compound or mixture, the primary purpose of which is to function by explosion, producing an audible effect in a fireworks device.

**FIRECRACKERS.** A small, paper-wrapped or cardboard tube containing no more than 50 milligrams of explosive composition that produces noise and flash of light; provided that firecrackers used in aerial devices may contain up to 130 milligrams of explosive composition per report.

**FIREWORKS.** Any composition or device for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. **FIREWORKS** are further classified in this subchapter as common fireworks and special fireworks, as defined by the United States Department of Transportation, 49 C.F.R. parts 173.99(d) and 173.100(r). **FIREWORKS** also means devices intended to produce a visible or audible effect by combustion, deflagration or detonation and are categorized as "permissible fireworks" or "display fireworks".

**FLITTER SPARKLER.** A narrow paper tube attached to a stick or wire and filled with no more than five grams pyrotechnic composition that produces color and sparks upon ignition and the paper at one end of the tube is ignited make the device function.

**GROUND AUDIBLE DEVICE.** A fireworks device intended to function on the ground that produces an audible effect and includes firecrackers of all types and chaser.

**GROUND SPINNER.** A small, rapidly spinning device containing no more than 20 grams of pyrotechnic composition venting out an orifice usually on the side of the tube that, when ignited, produces a shower of sparks and color. **GROUND SPINNERS** is similar in operation to a wheel, but is intended to be placed flat on the ground and ignited.

**HELICOPTER** or **AERIAL SPINNER.** A tube containing no more than 20 grams of chemical composition with a propeller of blade attached that spins rapidly as it rises into the air with a visible or audible effect sometimes produced at or near the height of flight.

**MANUFACTURER.** Any person, firm or corporation engaged in the manufacture of fireworks.

**MINE** or **SHELLS.** A heavy cardboard or paper tube usually attached to a wooden or plastic base and containing no more than 40 grams of chemical composition plus not more than 20 grams of lift charge per tube that individually expels pellets of pressed pyrotechnic composition that burn with bright color in a star effect, or other devices propelled into the air, and that contains components producing reports containing a maximum 130 milligrams of explosive composition per report. A **MINE** may contain more than one tube, but the tubes must fire in sequences upon ignition of one external fuse and the total chemical composition, including lift charges, of a multiple tube device shall not exceed 200 grams.

**MISSILE-TYPE ROCKET.** A device similar to a stick-type rocket in size, commotion and effect that used fins rather than a stick for guidance and stability and that contains no more than 20 grams of chemical composition.

**PERMISSIBLE FIREWORKS.** Fireworks legal for sale and use in the village under the provisions hereof.

**PYROTECHNIC COMPOSITION.** A chemical mixture that, on burning and without explosion, produces visible to brilliant displays or bright lights or whistles or motion.

**RETAILER.** Any person, firm or corporation purchasing fireworks for resale to consumers.

**ROMAN CANDLE.** A heavy paper or cardboard tube containing no more than 20 grams of chemical composition that individually expels pellets of pressed pyrotechnic composition that burn with bright color in a star effect.

**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 130 milligrams (two grains) of explosive composition, aerial shells containing more than 40 grams of chemical composition exclusive of lift charge and other exhibition display items that exceed the limits contained in this subchapter for common fireworks.

**SPECIALTY RETAILER.** Any person, firm or corporation purchasing fireworks for year-round resale in permanent retail stores whose primary business is tourism.

**STICK-TYPE ROCKET.** A cylindrical tube containing no more than 20 grams of chemical composition with a wooden stick attached for guidance and stability that rises into the air upon ignition and produces a burst of color or sound at or near the height of flight.

**TOY SMOKE DEVICE.** A small plastic or paper item containing no more than 100 grams of pyrotechnic composition that produces white or colored smoke as the primary effect.

**WHEEL.** A pyrotechnic device that is made to attach to a post or other surface and that revolves, producing a shower of color and sparks and sometimes a whistling effect, and that may

have one or more drivers, each of which contains no more than 60 grams of pyrotechnic composition and the total wheel contains no more than 200 grams total pyrotechnic composition.

**WHOLESALE.** Any person, firm or corporation purchasing fireworks for resale to retailers.

(Ord. 106, passed 1-13-2005)

#### **§ 90.024 PERMISSIBLE FIREWORKS.**

Permissible fireworks within the village are ground- and hand-held sparkling and smoke devices:

- (A) Cone fountains;
- (B) Crackling devices;
- (C) Cylindrical fountains;
- (D) Flitter sparklers;
- (E) Ground spinners;
- (F) Illuminating torches;
- (G) Toy smoke devices; and
- (H) Wheels.

(Ord. 106, passed 1-13-2005)

#### **§ 90.025 SALE AND USE OF CERTAIN FIREWORKS PROHIBITED.**

(A) The sale and use within the municipal boundaries of the village of aerial devices such as aerial spinners, helicopters, mines, missile-type rockets, Roman candles, shells and stick-type rockets are prohibited.

(B) The sale and use within the municipal boundaries of the village of ground audible devices such as chasers and firecrackers are prohibited.

(Ord. 106, passed 1-13-2005) Penalty, see § 90.999

#### **§ 90.026 RESTRICTIONS OF USE OF CERTAIN FIREWORKS.**

The use of any other permitted fireworks not listed in § 90.024 is hereby restricted to areas within the municipal boundaries that are paved or barren or that have a readily accessible source of water for use by the homeowner or general public.

(Ord. 106, passed 1-13-2005)

#### **§ 90.027 RESTRICTIONS ON SALE OF FIREWORKS.**

(A) No fireworks may be sold at retail without a retail permit issued by the State Fire Marshal and a business license issued by the village. The permit and the business license shall be displayed at the location where the retail sale takes place.

(B) It is unlawful to offer for sale or to sell any fireworks to children under the age of 16 years or to any intoxicated person.

(C) At all places where fireworks are stored, sold or displayed, the words "NO SMOKING" shall be posted in letters at least four inches in height. Smoking, open flames and any ignition source are prohibited within 25 feet of any fireworks stock.

(D) No fireworks shall be stored, kept, sold or discharged within 150 feet of any gasoline pump or gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except stores where cleaners, paints and oils are handled in sealed containers only.

(E) All fireworks permittees and licensees shall keep and maintain upon the premises a fire extinguisher bearing underwriters laboratories incorporated rated capacity of at least five-pound ABC per 500 square feet used for fireworks sales or storage.

(F) All sales clerks who are at least 18 years of age shall be on duty to serve consumers at the time of purchase or delivery. Permissible fireworks may be offered for sale only at state-permitted or state-licensed retail locations.

(G) Any fireworks devices that are readily accessible to handling by consumers or purchasers in a retail sales location shall have their exposed fuses protected in a manner to protect against accidental ignition of an item by a spark, cigarette ash or other ignition source. If the fuse is a thread-wrapped safety fuse, which has been coated with a nonflammable coating, only the outside end of the safety fuse shall be covered. If the fuse is not a safety fuse, then the entire fuse shall be covered.

(H) Permissible fireworks may be sold at retail between June 20 and July 6 of each year and six days preceding and including new year's day and three days preceding and including Chinese New Year, September 16 and Cinco de Mayo of each year.  
(Ord. 106, passed 1-13-2005) Penalty, see § 90.999

## **§ 90.028 DISPLAY FIREWORKS.**

The sale or use of means or devices primarily intended for commercial displays that are designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes containing more than 130 milligrams of explosive composition; aerial shells containing more than 40 grams of chemical composition exclusive of life charge; and other exhibition display items that exceed the limits for permissible fireworks within the municipal boundaries of the village are prohibited.

(Ord. 106, passed 1-13-2005) Penalty, see § 90.999

## **AIR POLLUTION**

### **§ 90.040 PURPOSE.**

It is recognized that open burning emits contaminants into the atmosphere to the detriment of the quality of life for the inhabitants.

(Ord. 97, passed 12-13-1990)

#### **§ 90.041 DEFINITIONS.**

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

**GARBAGE.** Putrescible waste from gardens, kitchens and pantries.

**OPEN BURNING.** Any burning in the open from which the products of combustion are discharged directly into the air.

**PERSON.** Any individual, firm, partnership, corporation, company, society, association or any officer, agent or employee thereof.

**SMOKE.** Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash and other combustible material.

**TRASH.** All waste material including putrescible garbage, paper, cardboard, magazines and grass clippings.

**WEEDS.** Includes, but shall not be limited to tumbleweeds, grass and all rank, noxious, poisonous, harmful vegetation and any growth whatsoever of an offensive nature.

(Ord. 97, passed 12-13-1990)

#### **§ 90.042 PERMITTED OPEN BURNING.**

Open burning is prohibited, with the following exceptions:

(A) Weed control; or

(B) Fires used for recreation or cooking purposes in appropriately designated sites.

(Ord. 97, passed 12-13-1990) Penalty, see § 90.999

#### **§ 90.043 WEED CONTROL.**

(A) Burning of grass and weeds is permitted during daylight hours, so long as there is no wind. The responsible party must remain at the scene of the fire. The fire must be totally extinguished by dark. A running water hose must be within reach of the fire at all times.

(B) Prior to starting a permitted weed control fire, the individual responsible must notify dispatch (894-7111) during working hours, 8:00 a.m. to 4:00 p.m., Monday through Friday, or the Volunteer Fire Department (894-6617) other hours and on weekends, as to the time and location of the proposed fire.

(Ord. 97, passed 12-13-1990)

### **WEEDS, GRASS, VEGETATION**

#### **§ 90.060 FINDINGS.**

The Governing Body of the village hereby finds that a substantial number of citizens of the village have moved to the village because of respiratory problems which are complicated by the uncontrolled growth of weeds within the village; that the uncontrolled growth of weeds in the

village constitutes a fire hazard; and that the uncontrolled growth of weeds in the village is detrimental to the health and safety of the citizens of the village.  
(Ord. 47, passed 1-14-1976)

#### **§ 90.061 DEFINITION.**

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

**PROPERTY.** Any real property within the village. When a portion of the **PROPERTY** abuts on a public right-of-way or easement, the responsibility of the person in control for purposes of this section shall extend to the center of the public alley or easement, or back of street curb line, or edge of pavement; however, this shall not restrict in any manner, the maintenance of the right-of-way or easement by the village.  
(Ord. 47, passed 1-14-1976; Ord. passed 10-14-1999)

#### **§ 90.062 GROWTH OF WEEDS.**

It shall be unlawful for persons to permit any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants to grow to a height exceeding 12 inches anywhere in the village; any plants or weeds exceeding the height are hereby declared to be a nuisance.  
(Ord. 47, passed 1-14-1976) Penalty, see § 90.999

#### **§ 90.063 WEEDS; DUTY TO REMOVE.**

It is unlawful for any person, or the agent or employee of any person, owning or controlling property within the corporate limits of the village to permit the growth of weeds on the property to a height of more than 12 inches, and it shall be the duty of any person, firm or corporation to forthwith cut and remove the same from the property owned by him, her or them or under his, her or their control, within ten days after being notified by the village officials to remove the same.  
(Ord. 47, passed 1-14-1976) Penalty, see § 90.999

#### **§ 90.064 SERVICE OF NOTICE.**

It shall be the duty of the Village Clerk/Treasurer or Chief Law Enforcement Officer of the village to serve or cause to be served a notice upon the owner or occupant of any premises on which weeds or plants are permitted to grow in violation of this subchapter and to demand the abatement of the nuisance within ten days.  
(Ord. 47, passed 1-14-1976)

#### **§ 90.065 FAILURE TO ABATE.**

If the person so served does not abate the nuisance within ten days, the village may proceed to abate the nuisance, keeping an account of the expenses of the abatement and the expense shall be charged and paid by the owner or occupant.  
(Ord. 47, passed 1-14-1976)

#### **§ 90.066 LIEN FILED FOR CHARGES.**

Charges for the weed removal shall be a lien upon the premises. Whenever a bill for the charges remains unpaid for 60 days after it has been rendered, the village may foreclose the lien in the manner prescribed by law.  
(Ord. 47, passed 1-14-1976)

#### **§ 90.067 DISPOSAL OF LIEN PROPERTY.**

Property subject to a lien for unpaid weed cutting charges shall be sold for nonpayment of the same and the proceeds of the sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens.  
(Ord. 47, passed 1-14-1976)

### **ANTI-LITTERING**

#### **§ 90.080 DEFINITIONS.**

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

**AUTHORIZED PRIVATE RECEPTACLE.** A litter storage and collection receptacle as required and authorized in the applicable refuse collection system ordinance.

**COMMERCIAL HANDBILL.** Any printed or written matter, any sample pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature:

- (1) Which advertises for sale of any merchandise, product, commodity or thing;
- (2) Which directs attention to any business or mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
- (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; or
- (4) Which while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefitted gain of any person so engaged as advertiser or distributor.

**GARBAGE.** Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

**LITTER.** Garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

**MAYOR.** The Mayor of the village or his or her designated representative.

**NON-COMMERCIAL HANDBILL.** Any printed or written matter, any sample or advise, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

**PARK.** A park, reservation, playground, beach, recreation center, zoo, golf course or any other public area in the village, owned or used by the village and devoted to active or passive recreation.

**PERSON.** Any person, firm, partnership, association, corporation, company or organization of any kind.

**PRIVATE PREMISES** or **LAND.** Any dwelling, house, building, or any structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, land without building, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

**PUBLIC SPACE.** Any and all streets, sidewalks, boulevards, alleys or other public parks, sources, spaces, drainage channels, grounds and building.

**REFUSE.** All putrescible and non-putrescible soil waste (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

**RUBBISH.** Non-putrescible solid waste consisting of both combustible and non-combustible waste, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding crockery and similar materials.

**VEHICLE.** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway.

**VILLAGE.** The Village of Williamsburg, New Mexico.  
(Ord. 16, passed 4-14-1970)

## **§ 90.081 LITTER IN PUBLIC PLACES.**

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the village except in public receptacles or authorized private receptacle for collection, or in official village sanitary landfill.

(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

## **§ 90.082 PLACEMENT OF LITTER IN RECEPTACLE AS TO PREVENT SCATTERING.**



Persons placing litter in public receptacles or in authorized private receptacle shall do so in such manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or any other public or private place.

(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

#### **§ 90.083 SWEEPING LITTER INTO GUTTER PROHIBITED.**

No person shall sweep into or deposit in any gutter, street or other public or private place within the village the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk or driveways abutting their premises clean and free of litter.

(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

#### **§ 90.084 MERCHANTS' DUTY TO KEEP SIDEWALKS FREE OF LITTER.**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or any public or private place within the village the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the village shall keep the sidewalk abutting their business premises clean and free of litter.

(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

#### **§ 90.085 LITTER THROWN BY PERSONS IN VEHICLES.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any private property, any street or other public place within the village.

(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

#### **§ 90.086 TRUCK LOADS CAUSING LITTER.**

No person shall drive or move any truck or other vehicle within the village unless the vehicle is so constructed or loaded as to prevent any load or content of litter from being blown or deposited upon any street, alley or other private or public place.

(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

#### **§ 90.087 LITTER IN PARKS.**

No person shall throw or deposit in any park within the village, except in public receptacles and in a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other private or public place. Where

public receptacles are not provided, all litter shall be carried away from the park by any person responsible for its presence and properly disposed of elsewhere.  
(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

#### **§ 90.088 LITTER IN LAKES OR STREAMS.**

No person shall throw or deposit litter in any pond, lake, stream or any other body of water in a park or elsewhere in the village.  
(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

#### **§ 90.089 HANDBILLS AND NOTICES.**

(A) No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(B) No person shall throw, deposit or distribute any commercial or non-commercial handbill upon or to any private premises, if required by any one thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words; "No Trespassing", "No Peddlers or Agents", "No Advertisement" or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any handbills left upon the premises.

(C) No person shall throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner or occupant or other person then present in or upon the private premises. Provided, however, that, in case of inhabited private premises which are not posted as provided in this subchapter, the person unless requested by anyone upon the premises not to do so, shall have the authority to place or deposit any handbill in or upon the inhabited private premises, if the handbill is so placed or deposited as to secure or prevent from being blown or drifted about the premises or sidewalks, streets or to other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.

(D) The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein).

(E) No person shall post or affix any notice, poster or other paper device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree, or upon any public structure or building, except as may be authorized by law.  
(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

#### **§ 90.090 OWNER TO MAINTAIN PREMISES FREE OF LITTER.**

The owner or person in control of any private property shall, at all times, maintain the premises free of litter. Provided, however, that, this section shall not prohibit the storage of litter in authorized private receptacles for collection.  
(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

**§ 90.091 LITTER ON VACANT LOTS.**

No person shall throw or deposit litter on any open or vacant private property within the village whether owned by the person or not.

(Ord. 16, passed 4-14-1970) Penalty, see § 90.999

**§ 90.092 CLEARING OF LITTER FROM OPEN PRIVATE PROPERTY.**

(A) *Notice to remove.* The Village Mayor is hereby authorized and empowered to notify the owner of any open or vacant private property within the village or the agent of the owner to properly dispose of litter located on the owner's property. The notices shall be by certified mail, addressed to said owner or agent at his or her last known address by personal delivery.

(B) *Creation of lien.* The cost of the removal shall be lien on the property, and shall remain in full force and effect for the amount due, plus interest and costs. The lien shall be enforced and foreclosed according to applicable state law.

(Ord. 16, passed 4-14-1970)

**§ 90.999 PENALTY.**

(A) Whoever violates any provision of this chapter where no other penalty is provided shall be subject to § 10.99.

(B) Any person who shall violate the provisions of § 90.001 and, upon being found guilty by the Municipal Court, shall be punished by a fine not to exceed \$500.

(C) Every person convicted of a violation of § 90.002 shall be punished by a fine of not more than \$300 and by imprisonment for not more than 90 days or both the fine and imprisonment, at the discretion of the Municipal Court, unless otherwise expressly provided by ordinance or state law.

(D) Any person, company, firm or corporation violating § 90.003 shall be deemed guilty of public offense and, upon conviction, shall be punished by a fine not less than \$50, nor more than \$200, or by imprisonment not longer than 60 days, or punished by both, the fine and imprisonment at the discretion of the Court.

(E) Any person convicted of a violation of §§ 90.020 through 90.028 shall be punished by a fine of not more than \$300 per violation of §§ 90.020 through 90.028 or by imprisonment not to exceed 90 days or both.

(F) Any person violating any of the provisions of §§ 90.040 through 90.043 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not less than \$20 or more than \$500 and or be imprisoned in the County Jail for a period not exceeding 90 days or by both the fine and imprisonment. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punished as such hereunder.

(G) Any person who shall fail or neglect to cut the weeds and remove the cuttings or any accumulation of weeds, as provided in §§ 90.060 through 90.067, or who shall fail, neglect or refuse to comply with the provisions of this §§ 90.060 through 90.067, or who shall resist or obstruct the Mayor or his or her designated representatives in the cutting of weeds shall, upon

conviction thereof, be subject to a fine of not more than \$300 or imprisoned for not more than 90 days, or both, and each day the violation continues shall constitute a separate offense.

(H) Any person violating any of the provisions of §§ 90.080 through 90.092 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding \$200. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(Ord. 16, passed 4-14-1970; Ord. 31, passed 8-10-1971; Ord. 37, passed 3-28-1973; Ord. 47, passed 1-14-1976; Ord. 97, passed 12-13-1990; Ord. 108, passed 2-8-2001; Ord. 106, passed 1-13-2005)

## CHAPTER 91: FAIR HOUSING

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### Section

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### § 91.01 POLICY.

It is the policy of the Village Governing Body to provide, within constitutional limitations, for fair housing throughout the village.

(Ord. 88, passed 4-8-2004)

### § 91.02 DEFINITIONS.

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

**AGGRIEVED PERSON.** Includes any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that he or she will be injured by discriminatory housing practices that are about to occur.

**CHIEF ELECTED OFFICIAL.** The person who holds the highest elected position of the local unit of government.

**COMPLAINANT.** The person (including the chief elected official) who files a complaint under § 91.10.

**DISABILITY.** With respect to a person:

- (1) A physical or mental impairment which substantially limits one or more of the person's major life activities;
- (2) A record of having an impairment; or
- (3) Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in § 102 of the Controlled Substances Act (21 U.S.C. § 802)).

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under §§ 91.04 through 91.06.

**DWELLING.** Any building, structure or portion thereof which is occupied as, designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

**FAMILIAL STATUS.** One or more individuals (who have not attained the age of 18 years) being domiciled with:

- (1) A parent or another person having legal custody of the individual or individuals; or
- (2) The designee of the parent or other person having the custody, with the written permission of the parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant, or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

**FAMILY.** Includes a single individual.

**PERSON.** One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

**RESPONDENT.**

- (1) The person or other entity accused in a complaint of an unfair housing practice; and
- (2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under § 91.10.

**TO RENT.** Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.  
(Ord. 88, passed 4-8-2004)

### **§ 91.03 UNLAWFUL PRACTICE.**

(A) Subject to the provisions of division (B) below and § 91.07, the prohibitions against discrimination in the sale or rental of housing set forth in § 91.03 shall apply to:

- (1) All dwellings, except as exempted by division (B) below;
- (2) Nothing in § 91.04 shall apply to:

(a) Any single-family house sold or rented by an owner; provided that, the private individual owner does not own more than three single-family houses at any one time; provided further that, in the case of the sale of any single-family house by a private individual owner not residing in the house at the time of the sale, or who was not the most recent resident of the house prior to the sale, the exemption granted by this division shall apply only with respect to one such sale within any 24-month period; provide further that, the bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three single-family houses at any one time; provided further that, the sale or rental of any single-family house shall be excepted from the application of this chapter only if the house is sold or rented;

(b) Without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent or salesperson or of the facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson or person; and

(c) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 91.04(C), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other professional assistance as necessary to perfect or transfer the title.

(3) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as their residence.

(B) For the purposes of this division (B), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) They have, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) They have, within the preceding 12 months, participated as agent other than in the sale of their own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) They are the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 88, passed 4-8-2004)

#### **§ 91.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.**

As made applicable by § 91.03, and except as exempted by §§ 91.03(B) and 91.07, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, familial status, HIV-positive status or national origin;

(B) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, disability, familial status, HIV-positive status or national origin;

(C) To make, print or publish, or cause to be made printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, disability, limitation, HIV-positive status or discrimination;

(D) To represent to any person because of race, color, religion, sex, disability, familial status, HIV-positive status or national origin that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available; and/or

(E) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, familial status, HIV-positive status or national origin.

(Ord. 88, passed 4-8-2004) Penalty, see § 10.99

#### **§ 91.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.**

(A) *In general.* It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, HIV-positive status or national origin.

(B) *Definition.* For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

**RESIDENTIAL REAL ESTATE TRANSACTION.** Any of the following:

(a) The making or purchasing of loans or providing other financial assistance:

1. For purchasing, constructing, improving, repairing or maintaining a dwelling: or
2. Secured by residential real estate.

(b) Appraisal exemption.

(C) *Factors considered.* Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, disability, familial status, HIV-positive status or national origin.

(Ord. 88, passed 4-8-2004)

#### **§ 91.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.**

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against them in the terms or conditions of the access, membership or participation because of race, color, religion, sex, disability, familial status, HIV-positive status or national origin.

(Ord. 88, passed 4-8-2004) Penalty, see § 10.99



#### **§ 91.07 EXEMPTION.**

Nothing in this chapter shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by, or in conjunction with, a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to the person, unless membership in the religion is restricted on account of race, color, national origin, HIV-positive status or disability. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preferences to its members.  
(Ord. 88, passed 4-8-2004)

#### **§ 91.08 ADMINISTRATION.**

(A) The authority and responsibility for administering this chapter shall be in the chief elected official of the Village Governing Body.

(B) The chief elected official may delegate any of these functions, duties and powers to employees of the village or to boards of the employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining ordering, certifying, reporting or otherwise acting as to any work, business or rule prescribe the rights of ordinance. The chief elected official shall, by rule, prescribe the rights of appeal from the decisions of his or her hearing examiners, to other hearing examiners or to other offices in the village, to boards of officers or to themselves, as shall be appropriate and in accordance with law.

(C) All village departments and agencies shall administer their programs and activities relating to housing and community development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the chief elected official to further the purposes.  
(Ord. 88, passed 4-8-2004)

#### **§ 91.09 EDUCATION AND CONCILIATION.**

Immediately after the enactment of this chapter, the chief elected official shall commence the educational conciliatory activities as will further the purposes of this chapter. He or she shall call conference of persons in the housing industry and other interested parties to acquaint him or her with the provisions of this chapter and the suggested means of implementing it and shall endeavor with his or her advice to work out programs of voluntary compliance and enforcement.  
(Ord. 88, passed 4-8-2004)

#### **§ 91.10 ENFORCEMENT.**



(A) Any person who claims to have been injured by a discriminatory housing practice or who believes that they will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "aggrieved person") may file a complaint with the chief elected official. Complaints shall be in writing and shall contain such information, and be in such form as the chief elected official requires. Upon receipt of the complaint, the chief elected official shall furnish a copy of the same to the person or persons who have committed, or are about to commit, the alleged discriminatory housing practice, within 30 days after receiving a complaint or within 30 days after the expiration of any period reference under division (C) below, the chief elected official shall investigate the complaint and give notice in writing to the aggrieved person whether he or she intends to resolve it. If the chief elected official decides to resolve the complaints, he or she shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion. Nothing said or done in the course of the informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the chief elected official who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned not more than a year.

(B) A complaint under division (A) above shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonable and fairly amended at any time. A respondent may file an answer to the complaint against him or her and with the leave of the chief elected official, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

(C) If within 30 days after a complaint is filed with the chief elected official, the chief elected official has been unable to obtain voluntary compliance with this chapter, the aggrieved person may, within 30 days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The chief elected official will assist in this filing.

(D) If the chief elected official has been unable to obtain voluntary compliance within 30 days of the complaint, the aggrieved person may, within 30 days thereafter commence a civil action in any appropriate court, against the respondent named in complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur the court may enjoin the respondent from engaging in the practice or order such affirmative action as may be appropriate.

(E) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(F) Whenever an action filed by an individual comes to trial the chief elected official shall immediately terminate all efforts to obtain voluntary compliance.  
(Ord. 88, passed 4-8-2004)

## **§ 91.11 INVESTIGATIONS; SUBPOENAS; GIVING OF EVIDENCE.**

(A) In conducting an investigation, the chief elected official shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible

sources of evidence and may examine, record and copy the materials and take and record the testimony or statements of the persons as are reasonably necessary for the furtherance or the investigation; provided, however, that, the chief elected official first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The chief elected official may issue subpoenas to compel his or her access to, or the production of, materials, or the appearance of the persons and may issue interrogations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The chief elected official may administer oaths.

(B) Upon written application to the chief elected official, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chief elected official to the same extent and subject to the same limitations as subpoenas issued by the chief elected official. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at their request.

(C) Witnesses summoned by subpoena of the chief elected official shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by the respondent.

(D) Within five days after service of a subpoena upon any person, such person may petition the chief elected official to revoke or modify the subpoena. The chief elected official shall grant the petition if they find that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(E) In case of contumacy or refusal to obey a subpoena the chief elected official, or other person at whose request it was issued, may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served or transacts business.

(F) Any person who willfully fails or neglects to attend and testify, or to answer any lawful inquiry, or to produce records, documents or other evidences, if in his or her power to do so, in obedience to the subpoena or lawful order of the chief elected official shall be fined not more than \$1,000 or imprisoned not more than one year or both. Any person who, with intent thereby to mislead the chief elected official, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the chief elected official pursuant to his or her subpoena or other order or shall make entries in such reports, accounts, records or other documents, or shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(G) The Village Attorney shall conduct all litigation in which the chief elected official participates as a party, pursuant to this chapter.

(Ord. 88, passed 4-8-2004)

## **§ 91.12 ENFORCEMENT BY PRIVATE PERSONS.**

(A) The rights granted by §§ 91.03 through 91.06 may be enforced by civil actions in the appropriate United States district, state or local court. A civil action shall be commenced within 180 days after the alleged discriminatory housing practice occurred; provided, however, that, the court shall continue such civil case brought pursuant to this section of § 91.10(D) conciliation efforts of the chief elected official are likely to result in satisfactory settlement of the alleged discriminatory housing practice complained of in the complaint made to the chief elected official and which practice forms the basis for the action in court; and provided, however, that, any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this chapter and involving a bona fide purchaser, encumbrance or tenant without actual notice of the filing of a complaint of civil action under the provisions of this chapter shall not be affected.

(B) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order and may award to the plaintiff actual damages and not more than \$1,000 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff: provided that, the plaintiff, in the opinion of the court, is not financially able to assume the attorney's fees.

(Ord. 88, passed 4-8-2004)

### **§ 91.13 INTERFERENCE, COERCION OR INTIMIDATION.**

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged another person in the exercise or enjoyment of any right granted or protected by §§ 91.03 through 91.06. This section may be enforced by appropriate civil action.

(Ord. 88, passed 4-8-2004) Penalty, see § 10.99

### **§ 91.14 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.**

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(A) Any person because of his or her race, color, religion, sex, disability, familial status, HIV-positive status or national origin and because they are or have been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service organization or facility relating to the business of selling or renting dwellings; or

(B) Any person because he or she is or has been, or in order to intimidate the person or any other person or any class of persons from:

(1) Participating, without discrimination because of race, color, religion, sex, disability, familial statue, HIV-positive status or national origin, or in any of the activities, services organizations, or facilities described in division (A) above; or

(2) Affording another person or class of persons opportunity or protection so to participate; or

(C) Any citizen because he or she is or has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status, HIV-positive status or national origin, in any of the activities, services, organizations or facilities described in division (A) above, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$1,000, or imprisoned not more than one year or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years or both; and if death results shall be subject to imprisonment for any term of years or for life and/or to other applicable local/state/federal laws.  
(Ord. 88, passed 4-8-2004)

## **CHAPTER 92: ANIMALS**

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### Section

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## **GENERAL PROVISIONS**

### **§ 92.001 SHORT TITLE.**

This chapter shall be known and may be cited as the "Village Animal Control Ordinance". It is the intent of the Trustees that enactment of this chapter will protect animals from neglect and abuse, protect residents from annoyance and injury, assist in providing housing for animals in a control center and finance the functions of the licensing and recovery of the animals.

### **§ 92.002 ADMINISTRATION.**

The Mayor is responsible for the administration of this chapter. Reasonable rules and regulations shall be prescribed by the Commission to carry out the intent and purpose of this chapter, pursuant to standards created by this chapter. Powers to enforce the chapter are delegated to the Village Police Department and the Animal Control Officer as contracted by the village.

### **§ 92.003 DEFINITIONS.**

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

**ABANDONMENT of ANIMALS.** To leave the animal behind without proper care and protection, to give up the animal to fend for itself, regardless of age or condition.

**ANIMAL.** Any vertebrate members of the animal kingdom, excluding humans.

**ANIMAL CONTROL CENTER or CENTER.** Any pound, lot, premises and/or building maintained by the village for the care and custody of animals. This shall include any private shelter contracted by the village for the purpose of maintaining care and custody of animals.

**ANIMAL CONTROL OFFICER.** Any person designated by the Village Code Enforcement Officer as a peace officer, who is qualified to perform such duties under the laws of the state.

**AUCTION.** Any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales of animals by owners.

**BITE.** An actual puncture or tear of the skin inflicted by the teeth of an animal.

**COLLAR.** A band, chain, harness or other suitable device worn around the neck of an animal, to which a current rabies vaccination and registration tag can be affixed.

**EMERGENCY MEASURES.** Any action taken by Animal Control or its designated agents to preserve the health and life of an animal, including but not limited to entering vehicles or premises, with probable cause, and impounding an animal to prevent present or imminent suffering.

**ENCLOSED LOT.** Parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.

**ESTABLISHMENT.** A place of business together with its grounds and equipment.

**ESTRAY.** Any animal found running at large beyond the boundaries of the premises of the owner.

**GROOMING PARLOR.** Any establishment, or part thereof, or premises maintained for the purpose of offering animals cosmetological services for profit.

**KENNEL, COMMERCIAL.** Any premises on which eight or more dogs and/or eight or more cats, four months of age or older, are kept; and/or where the business of buying, selling, breeding, training or boarding of dogs and/or cats is conducted. This shall not include veterinary hospitals, humane societies, animal shelters or pounds approved by a governmental agency.

**LICENSED VETERINARIAN.** A person with a Doctor of Veterinary Medicine degree, licensed to practice in the state.

**NUISANCE.** Not limited to defecation, urination, disturbing the peace, emitting noxious or offensive odors or otherwise endangering or offending the well-being of the inhabitants of the village.

**OWNER.** Any person, partnership or corporation, owning, keeping or harboring one or more animals, but not more than six in any combination of dogs and/or cats.

**PET.** Any dog, cat, turtle, small caged birds, aquarium fish, iguanas, caged rodents and caged snakes, pygmy goats and potbellied pigs.

**PET SHOP or DEALER.** Any commercial establishment or person, including wholesalers engaged in the business of buying and selling or holding pet animals for sale. This term shall not include livestock auctions.

**PREMISES.** A parcel of land and/or the structure(s) thereon.

**PUBLIC NUISANCE.** Not limited to defecation, urination, disturbing the peace, emitting noxious odors or otherwise endangering or offending the well-being of the inhabitants of the village by:

- (1) Molesting passers-by or passing vehicles;
- (2) Attacking other animals;
- (3) Trespassing on school grounds, public or private property;
- (4) Being found running at large;
- (5) Damaging private or public property; or
- (6) Barking, whining or howling in an excessive or continuous fashion.

**QUARANTINE.** To detain or isolate an animal suspected of contagion.

**RESPONSIBLE PERSON FOR THE ANIMAL.** The owner of the animal or an adult person placed in charge of the animal in the absence of incapacitation of the owner.

**RUNNING AT LARGE** or **TO RUN.** To be free of physical restraint beyond the boundaries of the premises of the owner.

**SHELTER.** Any establishment owned and operated by a nonprofit organization or a licensed business licensed to do business in the state whose sole function is to bring aid and comfort to animals.

**TORMENTING** of **ANIMALS.** The act of bothering, annoying, distracting or agitating an animal.

**VACCINATION.** The inoculation of an animal with a vaccine administered by a veterinarian for the purpose of immunizing the animal against rabies as required by NMSA §§ 77-1-3 and 77-1-5. The amount given should be sufficient to provide immunity from rabies for a minimum of one year.

**VETERINARY HOSPITAL** or **CLINIC.** Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries to animals.

**VICIOUS ANIMAL.** Any animal which bites or in any other manner attacks or attempts to attack any person or animal within the village, except that any animal that bites, attacks or attempts to attack any person unlawfully upon its owner's or keeper's premises, or which is provoked to attack, shall not be deemed a **VICIOUS ANIMAL**.

#### **§ 92.004 DOGS TRAINED TO ASSIST THE BLIND AND HEARING IMPAIRED ALLOWED IN PUBLIC PLACES.**

It is unlawful for any person owning, operating or maintaining any public place of business or conveyance into which the general public is invited for any business purpose to debar or exclude therefrom any dog which has been trained to assist the blind person or hearing impaired whom it was trained to assist in conformity with law.

Penalty, see § 92.999

#### **§ 92.005 CRUELTY.**

(A) *Physical abuse.* It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn or scald any animal; except that reasonable force may be employed to drive off vicious or trespassing animals.

(B) *Work cruelty.* It is unlawful for any person to drive or work any animal cruelly.

(C) *Care and maintenance.* It is unlawful for any person to fail, refuse or neglect to provide any animal in his or her charge or custody, as owner or otherwise, with proper food, drink, shade, care or shelter, or to carry any animal in or upon any vehicle in a cruel or inhumane manner. Any animal habitually kept outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal.

(D) *Poisoning.* It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any harmful or poisonous substance.



(E) *Uncared-for animals.* Whenever the Animal Control Officer, Code Enforcement Officer or designated representative finds that any animal is or will be without proper care because of injury, illness, incarceration, or other voluntary absence of the owner or person responsible for the care of such animal, the Animal Control Officer shall make arrangements for the care of the animal.

(F) *Injury by motorists.* Every operator of a motor or other self-propelled vehicle upon the streets and ways of the village shall immediately, upon injuring, striking, maiming or running down any animal, give aid as is reasonably able to be rendered. In the absence of the owner, he or she shall immediately notify the police, furnishing sufficient facts relative to the injury. It is the duty of the operator to remain at or near the scene until such time as the appropriate authorities arrive and, upon the arrival of the person, the operator shall immediately identify himself or herself to the appropriate authorities. Alternatively, in the absence of the owner, a person may give aid by taking the animal to a veterinary hospital or the Animal Control Center and notifying the Police. The animal shall be deemed an uncared-for animal within the meaning of division (E) above. Emergency vehicles are excluded from this provision.

(G) *Hobbling livestock.* It is unlawful for any person to hobble livestock or other animals by any means which may cause injury or damage to any animal.

(H) *Keeping of diseased animals.* It is unlawful for any person to have, keep or harbor any animal which is infected with any dangerous disease. The Animal Control Officer may impound the diseased animal in accordance with the provisions of this subchapter. All such animals impounded may be destroyed humanely as soon as is conveniently possible. In the case of destruction of such animal, the Code Enforcement Officer or Animal Control Officer shall not be required to give any of the notices provided in this subchapter. This section shall not be construed to include veterinary hospitals or animals under active veterinary care.

(I) *Fights.* It is unlawful for any person to promote, stage, hold, manage, conduct, carry on or attend any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal.

(J) *Abandonment.* It shall be unlawful for any person to abandon any animal or to cause the abandonment.

(K) *Fowl; impounding; crating.* It is unlawful for any person to confine any wild or domestic fowl or birds unless provisions are made by each person for the proper feeding and the furnishing of water to the fowl or birds at intervals not longer than 12 hours. No person shall impound any wild or domestic fowl or birds in a crate, box or other enclosure, which does not permit each fowl or bird impounded therein to stand in a naturally erect position.

(L) *Tormenting.* It shall be unlawful for any person to willfully torment any and all animals by any means, such as throwing rocks, yelling or giving chase in any manner. No person shall purposely cause a dog to bark unnecessarily or annoy such animal to the point the animal will attempt to attack a person or other animal.

(M) *Songbirds, killing and robbing of nest prohibited.* It is unlawful for any person to willfully kill any songbird or to molest or rob the nest of the bird.

Penalty, see § 92.999

***Statutory reference:***

*Cruelty to animals, see NMSA § 30-18-1*



**§ 92.006 SALE.**

(A) *Use of public property.* No person shall display, sell or offer for sale, barter, give away or otherwise dispose of any animal upon any street, sidewalk, public park or private business, unless the private business is properly licensed.

(B) *Rabbits or fowl.* No person shall sell, offer for sale, barter or give away any baby rabbits under four weeks of age. Nothing in this section shall be construed to prohibit the raising of rabbits and fowl by a private individual for his or her personal use and consumption; provided that, he or she shall maintain proper brooders and other facilities for the care and containment of the animals while they are in his or her possession.

(C) *Premiums and novelties.* No person shall offer as a premium prize, award, novelty or incentive to purchase merchandise any live animal.

(D) *Turtles.* No person shall offer for sale, sell, barter or give away turtles, except in conformance with appropriate federal regulations.

Penalty, see § 92.999

**§ 92.007 WILD ANIMALS PROHIBITED.**

(A) No person shall keep an animal of a species prohibited or protected by Title 50 C.F.R. or by the appropriate state regulations or statutes.

(B) No person shall keep any animal which is wild, fierce, dangerous, noxious or naturally inclined to do harm except where adequate protective devices are provided to prevent the animals from escaping or injuring the public, and a proper license is obtained in accordance herewith. If the requirements are met, they may be kept in a zoological park, pet shop, veterinary hospital, animal shelter, public laboratory, circus, amusement show, educational facility, scientific facility or in the control of a humane society.

(C) **WILD ANIMAL** means any animal of a species that in its natural life is wild, dangerous or ferocious and though it may be trained and domesticated will remain dangerous to others and may injure or kill a citizen in the village. Those animals, however domesticated, shall include but are not limited to:

(1) Dog family (canidae). All except domesticated dogs, including wolf, fox, coyote, dingo and the like;

(2) Cat family (felidae). All except the commonly accepted domesticated cats, including lions, pumas, panthers, mountain lions, wild cats and the like;

(3) Bears (ursidae). All bears, including grizzly bears, brown bears, black bears and the like;

(4) Weasels (mustelidae). All, including weasels, martins, mink, wolverine, ferrets, badgers, otters, ermine, mongoose and the like;

(5) Porcupine (erethizontidae);

(6) Venomous snakes; and

(7) Venomous lizards, alligators and crocodiles.

Penalty, see § 92.999

**Statutory reference:**

*Sale, purchase, trade and possession of certain animals regulated, see NMSA § 77-18-1*

**§ 92.008 LICENSING WILD ANIMALS.**

(A) Any person owning a wild animal covered by this section at the time of enactment of this chapter may license the animal in accordance with law. A fee of \$20 shall be charged for such licensing through the village.

(B) For the purpose of humanely trapping wild animals such as skunks and domesticated dogs or cats which may be a menace to the public, the Animal Control Officer may maintain traps as are constructed for the purpose of trapping a live animal without serious risk of injury to the trapped animal and which may be placed on private property at the request of the owner thereof. Traps shall be baited only inside the trap and shall be checked not less than twice a day by the Animal Control Officer or the property owner requesting the placement of the traps. All such trapping shall be in conformity with state law.

**§ 92.009 HARBORING PETS.**

(A) It shall be unlawful for any person to own, possess or harbor more than four pets, in any combination of pets, four months of age or older on his or her premises, where the business of buying, selling, breeding, training or boarding of pets is not carried on.

(B) It shall not be a violation of this section if the person obtains a special permit from the Animal Control Officer which permits the person to engage in the aforesaid activity. All applications for special permits must meet the following conditions.

(1) An initial non-refundable fee of \$25 for special permits must accompany an application to defray the cost of processing the request.

(2) All special permits must be renewed annually and a fee of \$10 shall be assessed.

(3) Any application may be denied if the owner or responsible person shows a history of non-compliance with the village codes concerning animal control as evidenced by a conviction of the ordinance during the past year.

(C) A special permit may be revoked if, in the judgement of the Animal Control Officer, it is determined that the holder of the permit allows any one or more of the following conditions to exist:

(1) The realty or the pens are not maintained in a clean and sanitary condition to such an extent that either of them constitute a health hazard or produce noxious odors;

(2) The housing structures are considered to be unsafe; and/or

(3) The permit holder is in violation of any of the village animal control ordinances.

Penalty, see § 92.999

**§ 92.010 SPAYING AND NEUTERING DOGS AND CATS.**

(A) It shall be the responsibility of the person obtaining an unspayed or unneutered, adult dog or cat from the Animal Shelter, to have the dog or cat spayed or neutered within 30 days of receiving the animal.

(B) If the animal obtained is a puppy or kitten, the owner can wait until the animal reaches the age of six months before getting it spayed or neutered.  
Penalty, see § 92.999

#### **§ 92.011 FEMALE DOGS OR CATS IN HEAT TO BE CONFINED.**

Owners shall confine their female dogs and cats in heat so that other dogs or cats are not attracted to the animal in heat and can only come in contact with dogs or cats intended to be bred with the animal in heat.  
Penalty, see § 92.999

#### **§ 92.012 ENFORCEMENT.**

(A) The civil and criminal provisions of this chapter shall be enforced by those persons or agencies designated by the Mayor.

(B) It shall be a violation of this chapter for any person to interfere, hinder or molest any Animal Control Officer or Police Officer in the performance of their duties.

(C) Persons in violation of this chapter will be issued a written summons to appear in Municipal Court within three working days of the violation.

(D) Refusal to sign the summons to appear in Village Court shall require the officer to file a criminal complaint before the Village Court, which may result in an arrest warrant being issued for the person refusing to sign the summons.

Penalty, see § 92.999

#### **§ 92.013 FINES AND FEES.**

(A) The following fines shall be imposed for the impoundment or citation of any animal under the provisions of this chapter. These fines are in addition to any court costs that may be imposed.

- (1) First offense within calendar year: \$50 per animal.
- (2) Second offense within calendar year: \$100 per animal.
- (3) Third offense within calendar year: \$250 per animal.

(B) Whenever any animal is impounded, an additional fee of \$5 per day shall be charged for feeding and caring for the animal and will be paid to the Animal Control Center.  
Penalty, see § 92.999

### **ANIMAL CONTROL GENERALLY**

#### **§ 92.030 ANIMAL CONTROL OFFICERS.**

The Village Police Department and Animal Control Officers shall have the authority to issue citations for violations of this chapter and to perform such other duties as are prescribed in this chapter. An Animal Control Officer shall wear a uniform and shall wear a badge identifying such officer as an Animal Control Officer. The Animal Control Officer is hereby designated a peace officer, deputized in accordance with state statutes as they now exist or may hereafter be amended, and he shall not be required to be certified as a regular law enforcement officer.

***Statutory reference:***

*Municipal authority to designate Animal Control Officer, see NMSA § 77-1-15.1B*

**§ 92.031 ANIMAL CONTROL CENTER.**

(A) There is hereby established an Animal Control Center which shall be located in a location as shall be designated by the Commission.

(B) The Animal Control Center shall be kept open to the general public for the transaction of business during the hours set by the Village Code Enforcement Officer.

**§ 92.032 IMPOUNDMENT.**

(A) It is the duty of the Animal Control Officer to take up and impound in the Animal Control Center any stray or any animal kept or maintained contrary to this chapter, including any animal that is allegedly creating a public nuisance.

(B) No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal of which he or she is not the owner for more than 24 hours without first reporting the possession of the animal to the Animal Control Officer, giving his or her name and address, a true and complete statement of the circumstances under which he or she took up the animal, and the precise location where the animal is confined.

(C) It is unlawful for any person taking up an animal to fail to give the notice required in division (A) above and for any person having the animal in his or her possession to fail or refuse to immediately surrender the animal to the Animal Control Officer upon demand thereof.

(D) If an stray animal is wearing a license or other identification, it shall be returned to the owner and a citation issued. If an stray animal is not wearing a license or other identification, the animal shall be confined for a 72-hour period at the Animal Control Center. The Animal Control Officer may dispose of stray animals impounded under this section the day after the required impoundment period.

(E) No dog or cat that has been impounded by the Animal Control Center will be sold for the purpose of breeding or resale.

(F) It shall be the responsibility of an animal owner redeeming an animal legally impounded under the provisions of this subchapter or a person adopting an animal through the Animal Control Center to reimburse the village for animal boarding or other costs. The offices of the Village Clerk/Treasurer shall establish appropriate procedures for collecting the fees.

(1) A redemption fee of \$5 per day shall be paid by the owner of the animal. This may be in addition to any fines or citations.

(2) A \$10 adoption fee shall be paid by any person adopting an animal that has been legally impounded in addition to boarding expense to and including date of adoption.

(G) The Animal Control Officer shall maintain a record of all animals in the control of the Center and shall maintain these records for not less than one year. The record shall contain at least the following information:

- (1) A complete description of the animal;
- (2) The manner and date of its acquisition by the Center;
- (3) The date and manner of its disposal;
- (4) The name and address of the purchaser of any animal; and
- (5) All fees received.

(H) An animal which continues to be an alleged nuisance may be impounded by the Animal Control Officer until such time as a judgment is made by the Municipal Court.

(I) Fines for violations of this subchapter shall be in accordance with the provisions of § 10.99.

Penalty, see § 92.999

***Statutory reference:***

*Municipal authority to impound and dispose of animals running at large, see NMSA § 3-18-3A(3)*

**§ 92.033 RESTRAINT OF ANIMALS.**

(A) All animals shall be contained upon the premises of the owner unless restrained off the premises under the immediate control of the owner or responsible person. While restrained on the premises of its owner or responsible person, no lead less than 25 feet in length shall be used. While restrained off the premises under the immediate control of the owner or responsible person, no lead greater than 12 feet in length shall be used.

(B) No owner or responsible person shall fail to exercise proper care and control of his or her animal to prevent it from becoming a public nuisance.

(C) Any animal trespassing upon private or public premises shall be deemed prima facie not to be under the immediate control of the owner or a responsible person and the Animal Control Officer may issue a citation to the owner or responsible person or impound the animal or both.

Penalty, see § 92.999

**§ 92.034 CONFINEMENT DURING ESTRUS.**

Any female dog or cat in the stage of estrus (heat) shall be confined to a building, kennel 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 shall be required to place such animal in a boarding kennel or veterinary hospital at the keeper's expense.

Penalty, see § 92.999

**§ 92.035 BREAKING INTO ANIMAL CONTROL CENTER; VEHICLE.**

It is unlawful for any person to break open any pound, center or animal control vehicle wherein animals are impounded by the Animal Control Officer of the village, or in any other way to remove or assist in the removal of any animal from the pound, center or vehicle without lawful permission.

Penalty, see § 92.999

#### **§ 92.036 STERILIZATION AGREEMENT AND STERILIZATION DEPOSIT.**

(A) No animal shall be released from the animal shelter to an adopting person unless a sterilization agreement has been signed and a sterilization deposit has been paid, as provided in divisions (C) and (D) below.

(B) In addition to any adoption fee charged, a sterilization deposit of at least \$25 shall be imposed on the adoption of each animal from the animal shelter.

(C) Animals less than six months of age shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he or she will have the adopted animal sterilized when it is no older than six months of age.

(D) Adult animals over the age of six months shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he or she will have the animal sterilized within 30 days of the date of adoption.

(E) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized.

(F) An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of the \$25 for the sterilization deposit and impoundment fees imposed by the shelter, and the owner shall sign an agreement stating he or she will sterilize the animal within 30 days after release or will obtain a breeder permit or its equivalent. The sterilization deposit shall be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized.

Penalty, see § 92.999

## **RABIES**

#### **§ 92.050 VACCINATIONS.**

(A) It is the duty of all persons owning or keeping a cat or a dog or any member of the canine family over the age of three months to have the animals vaccinated against rabies. The rabies vaccination shall be given in an amount sufficient to provide immunity from rabies for three years and shall be administered by a licensed veterinarian. A certificate from a licensed veterinarian shall be evidence of vaccination. The Commission may require other animals to receive annual rabies vaccination.

(B) The veterinarian administering antirabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain

the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of vaccination and the expiration date of the period of immunity.

(C) It is unlawful for the owner or keeper of any dog, cat or any other members of the canine or feline family to fail to exhibit its certificate of vaccination upon demand to any police officer or Animal Control Officer.

(D) It is the duty of all persons who adopt a dog to have the dog vaccinated against rabies, distemper complex and parvo virus within 48 hours of adoption. It is the duty of all persons who adopt a cat to have the cat vaccinated against rabies and feline distemper complex within 48 hours of adoption.

Penalty, see § 92.999

***Statutory reference:***

*Vaccination of dogs and cats against rabies, see NMSA § 77-1-3*

## **§ 92.051 CONFINEMENT OF RABID ANIMAL.**

An animal that has rabies or shows signs of having rabies and every animal bitten by another animal afflicted with rabies or that has been exposed to rabies shall be confined at once in a secure place by the owner. A person who knows or who has reason to know that an animal is infected with rabies or has been exposed to rabies shall immediately upon learning of this notify the Animal Control Officer as to the place where the animal is confined and shall surrender the animal to the Animal Control Officer upon demand. The Animal Control Officer shall then deal with the rabid animal pursuant to state law.

## **§ 92.052 BITING DOGS OR OTHER BITING ANIMALS.**

(A) The owner of an animal that bites a person and a person bitten by an animal have a duty to report that occurrence to the Animal Control Officer within 24 hours. The owner of an animal that bites a person shall surrender the animal to an Animal Control Officer, if necessary, to impound the animal for a period of observation.

(B) A physician who renders professional treatment to a person bitten by an animal shall report the fact that he or she has rendered professional treatment to the Chief of Police or an Animal Control Officer within 24 hours of his or her first professional attendance. The physician shall report the name, sex and address of the person bitten as well as the type and location of the bite. The physician shall give the name and address of the owner of the animal that inflicted the bite and other facts that may assist the Animal Control Officer in ascertaining the immunization status of the animal.

(C) An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary by the Animal Control Officer. The owner of the animal shall bear the cost of confinement.

(D) A person who has custody of an animal that has bitten a person shall immediately notify the Animal Control Officer.

Penalty, see § 92.999

***Statutory reference:***

*Notice to health officer of animal bites, see NMSA § 77-1-6*



## LICENSING PROVISIONS

### § 92.065 LICENSE REQUIRED.

(A) Any person owning, possessing or harboring any dog or cat three months of age or over shall obtain a license for each animal. Application for the license shall be made as directed by the Village Clerk/Treasurer and shall state the name and address of the owner, the name, breed, color, age and sex of the animal and any other information deemed necessary by the Village Clerk/Treasurer. A current rabies vaccination certificate shall be presented at the time of application for the license. Upon payment of the license fee, as prescribed in division (D) below, the Village Clerk/Treasurer shall issue a license certificate and tag for each animal. If the tag is lost, replacement tags with a cost set by resolution shall be purchased from the Village Clerk/Treasurer. The license shall expire on the same date as the rabies certificate or one year whichever is greater.

(B) A current license tag shall be affixed to the licensed dog or cat at all times in a reasonable manner, unless the licensed dog or cat is being kept in an approved kennel, veterinary hospital, is appearing in an approved show or is being trained. Provided that, the person that is training the dog shall have in his or her personal possession the valid license tag for each dog or cat and shall immediately display such upon request of the Animal Control Officer or a regular law enforcement officer.

(C) Animals belonging to nonresidents who do not keep the animals within the corporate limits of the village for 90 consecutive days shall be exempt from this section; provided, however, that, all other provisions of this division be complied with.

(D) The annual license fee shall be set by resolution for each neutered male dog or cat or for each spayed female dog or cat. The annual license fee shall be set by resolution for each unneutered male dog or cat or for each unspayed female dog or cat. The license fee shall not apply to dogs trained to assist the blind or hearing impaired.

(E) Upon change of ownership of any dog or cat, the new owner shall have the current license transferred to his or her name within 30 days.

Penalty, see § 92.999

***Statutory reference:***

*Municipal authority to require licensing of dogs, see NMSA § 77-1-15.1*

### § 92.066 UNLAWFUL USE OF LICENSE TAG.

It is unlawful for any person to remove any license tag from one animal to another. It shall be unlawful for any person to manufacture, cause to be manufactured, or to have in his or her possession or under his or her control a stolen, counterfeit or forged animal license tag, rabies vaccination certificate or other form of licensing as required under this division.

Penalty, see § 92.999

## AT LARGE, VICIOUS AND NUISANCE ANIMALS



**§ 92.080 RUNNING AT LARGE.**

It is unlawful for any person to allow or permit any animal to run at large in or on any street, alley, sidewalk, vacant lot or public property without the permission of the owner thereof. Any animal permitted to run at large in violation of this section is declared to be a nuisance, a menace to the public health and safety and shall be taken up and impounded as provided herein. Penalty, see § 92.999

***Statutory reference:***

*Municipal authority to make provision for the seizure of dogs and cats running at large, see NMSA § 77-1-12*

**§ 92.081 ENCLOSURE FOR BREEDING.**

It is unlawful for any person to let any female animal mate to any male animal, except within an enclosure so arranged as to obstruct the animals completely from the view of all who have no proprietary interest in the breeding of the animals. Penalty, see § 92.999

**§ 92.082 VICIOUS ANIMALS.**

It is unlawful for any person to keep or harbor a vicious animal in the village. Any person attacked by a vicious animal may use reasonable force to repel the attack. A vicious dog is defined as a dog which has, on at least one prior occasion, attacked or bitten another animal or person without provocation or without legal justification such as protection of persons. After a judicial determination that an animal is vicious the owner or keeper of the vicious animal shall destroy it humanely or turn the animal over to the Animal Control Officer.

Penalty, see § 92.999

***Statutory reference:***

*Vicious animals, see NMSA § 77-1-10*

**§ 92.083 DISTURBING THE PEACE.**

It is unlawful for any person to allow any animal to persistently or continuously bark, howl or make noise common to its species or otherwise disturb the peace and quiet of the inhabitants of the village; or to keep or maintain any animal in such manner as to disturb by noxious or offensive odors or otherwise endanger the health and welfare of the inhabitants of the village.

Penalty, see § 92.999

**§ 92.084 NUISANCES ON SIDEWALKS, PUBLIC PARKS AND ALLEYS.**

It is unlawful for the owner of any animal to permit, either willfully or through failure to exercise due care or control, any such animal to defecate on public or private property other than his or her own, unless the owner immediately cleans up and properly disposes of the defecation. Penalty, see § 92.999

## **§ 92.085 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.**

(A) *Short title.* This section may be known, and will be cited, as the "Dangerous Dog Ordinance".

(B) *Findings and intent.*

(1) Every year innocent people, predominantly children, are injured and sometimes killed as a result of the actions of dangerous dogs.

(2) No person has an absolute right to keep or harbor a dangerous or potentially dangerous dog within the village.

(3) This section will protect the inhabitants of the village.

(4) This section will provide for the proper registration and tracking of dangerous or potentially dangerous dogs within the village.

(5) This section will assist in providing control over dangerous and potentially dangerous dogs.

(C) *Definitions.* For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

**ANIMAL CONTROL AUTHORITY.** The Animal Control Center and Animal Control Officer(s) of the Police Department of the village is charged with addressing animal control issues within the village.

**DANGEROUS DOG.** A dog that caused a serious injury to a person or domestic animal.

**OWNER.** A person who possesses, harbors, keeps or has control or custody of a dog or, if that person is under the age of 18, that person's parent or guardian.

**POTENTIALLY DANGEROUS DOG.** A dog that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors:

(a) Causing an injury to a person or domestic animal that is less severe than a serious injury;

(b) Chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or

(c) Acting in a highly aggressively manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure.

**PROPER ENCLOSURE.** Secure confinement indoors or outdoors, such as in a fenced yard, locked pen or other structure that is designed to prevent the animal from escaping the confined area and young children from entering the confined area but does not include chaining, restraining or other affixing the animal to a stationary object.

**SERIOUS INJURY.** A physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.

(D) *Exceptions.* A dog will not be declared a dangerous or potentially dangerous dog if:

- (1) The dog is used by a law enforcement official for legitimate law enforcement purposes; or
- (2) The threat, injury or damage sustained by a person or domestic animal is the result of the person or domestic animal:
  - (a) Trespassing upon premises occupied by the owner or the dog;
  - (b) Provoking, tormenting, abusing or assaulting the dog, or in the past has repeatedly provoked, tormented, abused or assaulted the dog; or
  - (c) Committing, or attempting to commit, a crime.
- (3) The dog was:
  - (a) Responding to pain or injury;
  - (b) Protecting itself or its offspring; or
  - (c) Protecting or defending a human being or domestic animal from attack or assault.

(E) *Seizure of dog; petition to district court.*

- (1) If an animal control authority has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control authority may apply to the district in the county where the animal is located for a warrant to seize the animal.
- (2) If an animal control authority has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the animal authority may apply to the district court in the county where the animal is located for a warrant to seize the animal.
- (3) After seizure, the animal control authority will impound the dog pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the provisions of this division (E).
- (4) After seizure:
  - (a) The owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to this division (E); or
  - (b) The animal control authority may, within 14 days after seizure of the dog, bring a petition in the district court seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is dangerous and poses an imminent threat to public safety or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within 30 days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this division, the court shall immediately order the release of the dog to the owner.
- (5) If the owner does not admit that the dog is dangerous or potentially dangerous and the animal control authority does not bring a petition in court within 14 days of seizure of the dog, the court shall immediately order the release of the dog to its owner.
- (6) If the owner admits that the dog is dangerous and transfers ownership of the dog to the animal control authority, the animal control authority may humanely destroy the dog.
- (7) A determination that a dog is not dangerous or potentially dangerous shall not prevent the animal control authority from making a subsequent application for seizure based on the dog's subsequent behaviors.

(F) *Dangerous and potentially dangerous dogs; registration required.*

(1) Upon application, an animal control authority shall issue a certificate of registration to the owner of a dangerous or potentially dangerous dog if the owner establishes that:

- (a) The owner is able to keep the dog under control at all times;
- (b) A license, if applicable, has been issued pursuant to the requirements of the village;
- (c) The dog has a current rabies vaccination;
- (d) The owner has a proper enclosure to the dog;
- (e) The owner has paid an annual fee of \$100 to register a dangerous or potentially dangerous dog;
- (f) The dog has been spayed or neutered;
- (g) The dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and
- (h) The owner has entered the dog in a socialization and behavior program approved or offered by the animal control authority.

(2) If a dog previously determined to be dangerous or potentially dangerous has not exhibited any of the behaviors specified in this section for 36 consecutive months, the owner may request the animal control authority in the village to lift the requirements for registration pursuant to this section. If the animal control authority has no reasonable basis to believe that the dog has exhibited the behaviors specified, it shall relieve the owner of the requirements of this section.

(3) An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of division (E)(1) of this section, establishes that:

- (a) The owner has paid an annual fee of \$100, as established by the animal control authority to register a dangerous dog;
- (b) The owner has written permission of the property owner or homeowners' association where the dangerous dog will be kept, if applicable;
- (c) The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination;
- (d) When the dangerous dog is removed from the owner's property, the dog shall be caged or muzzled and restrained with a lead no longer than four feet and the dog shall be under complete control at all times;
- (e) The dangerous dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle; and
- (f) A clearly visible warning sign with a conspicuous warning symbol indicate there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from 50 feet, whichever is less.

(4) An animal control authority may order the immediate impoundment or humane destruction of a dog previously determined to be a dangerous dog if the owner fails to comply with the conditions for registration, confinement or handling set forth in this section.

(G) *Prohibited acts.*

- (1) It is unlawful for an owner of a dangerous or potentially dangerous dog to:
  - (a) Keep the dog without a valid certificate of registration;
  - (b) Violate the registration and handling requirements for the dog;
  - (c) Fail to notify the animal control authority immediately upon:

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1. The escape of the dog; or
  2. An attack by the dog upon a human being or a domestic animal.
- (d) Fail to notify the animal control authority of the dog's death within five business days;
- (e) Fail to notify the animal control authority within 24 hours if the dog has been sold or given away and to provide the name, address and telephone number of the new owner of the dog;
- (f) Fail to surrender the dog to an animal control authority for safe confinement pending a determination of the case where there is reason to believe that the dog poses an imminent threat to public safety; or
- (g) Fail to comply with special handling or case requirements for the dog that a court has ordered.
- (2) Whoever violates a provision of division (G)(1) above shall be charged in the Magistrate Court in the county in which the animal is located with a violation of the State Dangerous Dog Act, being NMSA §§ 77-1A-1 *et seq.*, and, upon conviction, shall be sentenced in accordance with the provisions of NMSA § 31-19-1 and the State Dangerous Dog Act. Penalty, see § 92.999

### **§ 92.999 PENALTY.**

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with § 10.99. The fines are as follows. These penalties are in addition to any court costs that may be imposed.

Failure to obtain the necessary vaccinations	\$25 \$50 plus obtain the necessary vaccinations
Knowingly harboring a rabid animal or one that has been exposed to rabies	\$500 maximum
Knowingly harboring and/or failing to report a dog or other animal which has bitten a person	\$25
Failure to confine a female dog or cat during its mating season	\$50
Failure to restrain an animal	
First offense	\$50
Second offense	\$100
Third offense	\$250
Failure to obtain license tag	\$50 plus obtain license tag
Failure to maintain an enclosure for animals while breeding	\$50
Maintaining animals or unenclosed premises	\$25
Maintaining on harboring a vicious animal	\$100
Animals disturbing the peace	
First offense	\$25
Second offense	\$50

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Third offense	\$100
Animal nuisances on sidewalks, private property, public parks, alleys or other public places	\$50
Unlawful use of license tags	\$100
Breaking into Animal Control Center or animal control vehicle	\$200
Intentional poisoning of animals	\$300
Tormenting of animals	\$100
Abandoning animals	\$50, plus impoundment fees
Possession or harboring of more than four pets	\$50 and forfeiture of all pets in excess of four
Failure to provide for the proper spaying or neutering of dogs or cats in excess of four	\$50 per animal plus forfeiture of all dogs and/or cats in excess of four
Failure to provide for the proper spaying or neutering of dogs or cats	\$100 and forfeiture of the animal
Cruelty	Up to \$500 and/or imprisonment in the discretion of the Judge

## TITLE XI: BUSINESS REGULATIONS

### Chapter

### 110. GENERAL PROVISIONS

## CHAPTER 110: GENERAL PROVISIONS

### Section

110.01	Business license fees generally
110.02	Business registration fees generally
110.03	Lodger's tax
110.04	Alcoholic beverage tax

### § 110.01 BUSINESS LICENSE FEES GENERALLY.

(A) It shall be unlawful for any person to engage in the following businesses, professions or trades as defined herein within the corporate limits of the village without first obtaining a license as resolved herein and pursuant to NMSA § 3-38-1, as amended.

(B) Before conducting, operating or engaging in any such business, trade or occupation within the limits of the village, every business shall pay in advance (for each location) the respective amounts hereinafter set forth.

(1) Itinerant peddlers, vendors or solicitors: \$25 a year.

(a) In addition to the business license fee imposed hereunder, itinerant peddlers, vendors or solicitors not maintaining a regular place of business in the village shall provide and post a bond in the sum of \$2,000 payable to the village for the use and benefit of any person who may suffer damages as adjudged by the District Court growing out of a transaction with the peddler, vendor or solicitor.

(b) Nothing in this division shall apply to any person selling wood, fruit, farm or garden produce of their own raising, or to commercial travelers or agents selling to retail merchants.

(2) Junk dealers and autowrecking concerns: \$25 a year. Locations of junk yards and autowrecking concerns must be approved by the Village Governing Body before license is issued.

(3) Pet shops, kennels and pet grooming parlors: \$35 a year.

(4) Shooting galleries: \$25 a year.

(5) Street or sidewalk stands, except when conducted by a non-profit charitable organization: \$5 a day for each stand.

(6) Yard and garage sales: first one-day sale: free; all subsequent sales: \$5 a day.

(a) Limited to two per year; and

(b) No signs, advertising, boxes and the like in the median.

(7) Home occupations: \$25 a year.

(a) A **HOME OCCUPATION** is defined as an occupation, business or trade carried on by a member of the family residing on the premises in any area zoned residential; provided that, no person not a resident on the premise is employed.

(b) No equipment or process shall be used in such home or occupation which creates noise, vibration, glare, fumes or odors detectable off the premises. No equipment or process shall be used which creates visible or audible interference in any radio or television receiver off the premises.

(c) No advertising sign shall be displayed other than a name plate not exceeding one square foot in area. There shall be no other exterior indication that the building, including accessory buildings, are being used for any purpose other than a dwelling.

(d) A home occupation business license shall not be issued to any resident of premises in an area zoned commercial.

(e) Home occupation business licenses shall not be granted in such cases where they would adversely affect adjoining properties, impair established property values, unduly increase vehicle traffic flow or endanger public safety.

(C) *Application.* Applicants for licenses under this section must file with the Clerk/Treasurer, a sworn application in writing, on a form to be furnished by the Clerk/Treasurer, which shall include, but is not limited to, the following information:

(1) Name;

(2) Address;

(3) Current revenue division taxpayer identification number or evidence of application for a current revenue division taxpayer identification number;

- (4) A brief description of the nature of the business; and
- (5) Proof of insurance coverage (when applicable).
- (D) *Business license fees; assessment; issuance of license.*
  - (1) On or before March 15 of the year, all businesses engaging in a type of business enumerated under division (B) above shall apply for a business license for that year and include payment with the application.
  - (2) Upon payment of the business license fee, the Clerk/Treasurer shall issue a business license to the applicant.
  - (3) Any business may protest the business license fee assessment by filing a written protest with the Village Clerk/Treasurer on or before March 15. The Board shall give the protesting business no less than five days notice of a hearing at which time the protest shall be heard by the Board.
  - (4) Any business, which must have a business license per this section, and which begins operation after March 15 of the calendar year, shall apply to the Village Clerk/Treasurer for a business license prior to engaging in business. The amount of the license fee shall be prorated based upon the number of days during the year when the business is conducted; except that, businesses subject to a daily license fee shall pay the fee for the number of days during which business is conducted and the fee shall be paid in advance.  
(Ord. 87, passed 5-12-1988; Ord. passed 3-14-1991; Ord. passed 4-8-1999) Penalty, see § 10.99

#### **§ 110.02 BUSINESS REGISTRATION FEES GENERALLY.**

- (A) There is imposed on each place of business conducted in the municipality a business registration fee of \$25. The fee is imposed pursuant to NMSA § 3-38-3 as it now exists or is amended and shall be known as the business registration fee. The business registration fee may not be prorated for businesses conducted for a portion of the year.
- (B) *Exemption.* No business registration fee shall be imposed on any business which is licensed under § 110.01, pursuant to NMSA § 3-38-1.
- (C) *Application to do business.* Any person proposing to engage in business within the municipal limits of the village shall apply for and pay a business registration fee for each outlet, branch or location within the municipal limits of the village prior to engaging in business, unless the person is required to obtain a business license fee under § 110.01.
- (D) *Renewal.* Prior to March 16 of each year, any person with a place of business in the village and subject to this section shall apply for renewal of business registration with the Municipal Clerk/Treasurer.
- (E) *Application.* Any person filing an application for issuance or renewal of any business registration shall include in the application his or her current Revenue Division taxpayer identification number or evidence of application for a current Revenue Division taxpayer identification number.  
(Ord. 86, passed 5-12-1988)

#### **§ 110.03 LODGER'S TAX.**



(A) *Title.* This section shall be known as and may be cited as "The Lodger's Tax Ordinance".

(B) *Purpose.* The purpose of this section is to impose a tax which will be borne by transient persons using commercial lodging accommodations which tax will provide revenues for advertising the community, improving its services, financing new facilities, attracting conferences, conventions and meetings of commercial, cultural, educational and social origin to the village.

(C) *Definitions.* For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

**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 vendee who for a rent uses, possesses or has the right to use or possess any room or rooms or other units of accommodation 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 Lodger's Tax Act, being NMSA §§ 3-38-13 *et seq.*

**PERSON.** A corporation, firm, other body corporate, partnership, association or individual, 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 Lodger's Tax Act, being NMSA §§ 3-38-13 *et seq.*

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

**VENDEE.** A natural person to whom lodgings or accommodations 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.

(D) *Imposition of tax.* There is hereby imposed an occupancy tax of revenues of 3% of gross taxable rent for lodging paid to vendors after 4-1-1991.

(E) *Exemptions.* The occupancy tax shall not apply:

(1) If a vendee:

(a) Has been a permanent resident of the taxable premises for a period of at least 30 consecutive days; or

(b) Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least 30 consecutive days.

(2) If the rent paid by a vendee is less than \$2 a day;

(3) To lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;

(4) To lodging accommodations at religious, charitable, educational or philanthropic institutions, including, without limitation, the accommodations at summer camps operated by the institutions;

(5) To clinics, hospital or other medical facilities;

(6) To privately-owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; or

(7) If the taxable premises does not have at least three rooms or three other units of accommodation for lodging.

(F) *Licensing.*

(1) No vendor shall engage in the business of providing lodging in the village who has not first obtained a license as provided in this section.

(2) Applicants for a vendor's license shall submit an application to the Village Clerk/Treasurer stating:

(a) The name of the vendor including identification of any person, as defined in this section, who owns or operates or both owns and operates a place of lodging and the name or trade names under which vendor proposes to do business and the post office address thereof;

(b) A description of the facilities, including the number of rooms and the usual schedule of rates therefor;

(c) A description of other facilities provided by vendor or others to users of the lodgings such as restaurant, bar, cleaning, laundry, courtesy car, stenographic, tailor or others, and a statement identifying the license issued, to whom issued, the authority issuing and the period of time for which issued, if applicable, and the identification number provided by the Bureau of Revenue of the state;

(d) The nature of the business practices of the vendor and to what extent, if any, his or her business is exempt from the Lodger's Tax; and

(e) Other information reasonably necessary to effect a determination of eligibility for the license.

(3) The Mayor shall review applications for license within ten days of receipt thereof and grant the license in due course if he or she finds the applicant is doing business subject to the Lodger's Tax.

(4) If the Mayor finds that the application is not qualified to do business subject to the Lodger's Tax, he or she shall, not more than ten days after receipt of the application, advise the applicant of his or her decision and give the reasons therefor. The notice of the action shall be given by registered mail, postage prepaid, addressed to the applicant at the address given on the application, deposited in the post office at the village on the date thereof.

(5) If the Mayor finds the applicant not exempt under the terms of this section, he or she shall, not more than ten days after receipt of the application, advise the applicant of his or her decision and give reasons therefor.

(6) An applicant who is dissatisfied with the decision of the Mayor may appeal the decision to the Board of Trustees by written notice to the Mayor of the appeal to be made within 15 days of the date of the decision of the Mayor on the application. The matter shall be referred to the Board of Trustees for hearing at a regular or special meeting in the usual course of business. The decision of the Board of Trustees made thereof shall be expressed in writing and be communicated in the same manner as the decision of the Mayor is transmitted. The action of the Board of Trustees shall be final.

(7) If the Board of Trustees finds for the applicant, the Mayor shall issue the appropriate license or other notice conforming to the decision made by the Trustees.

(G) *Collection of the tax; reporting.*

(1) Every vendor providing lodging shall collect the tax thereon on behalf of the municipality and shall act as trustees thereof.

(2) The tax shall be collected from vendee in accordance with this section and shall be charged separately from the rent fixed by the vendor for the lodgings.

(3) On and after 4-1-1991, each vendor licensed under the ordinance shall be liable to the village for the tax provided herein on the rent paid for lodging.

(4) Each vendor shall make a report by the twentieth day of each month on forms provided by the Village Clerk/Treasurer of the receipts for lodging paid to him or her in the preceding calendar month and shall remit therewith payment of the amounts due to the village. The report shall include sufficient information to enable the village to audit the report and shall be verified on oath by the vendor.

(H) *Duty of vendor.* The vendor shall maintain adequate records of facilities subject to the tax and of proceeds received for the use thereof. The records shall be maintained in the village and shall be open to the inspection of the village during reasonable hours and shall be retained for three years.

(I) *Failure to pay tax; failure to make return; computation, penalty, notice.*

(1) If any vendor makes a return as required by this section without paying the tax then due, he or she shall be liable for the tax and a penalty equal to 10% thereof, but not less than \$10 penalty in addition to the tax, without notice from the village with regard thereto. Promptly thereafter, the village shall give the delinquent vendor written notice of the estimated tax penalty and interest, which notice shall be served personally or by certified mail.

(2) If any vendor neglects or refuses to make a return and pay the tax as required by this section, the Mayor shall make an estimate based upon an examination of the vendor's books and records, or upon any information in its possession, or that may come into its possession, of the amount of the rent of the delinquent vendor for the period in respect to which he or she has failed to make return, and upon the basis of the estimated amount shall compute and assess the tax payable by the delinquent vendor, adding to the sum thus arrived at a penalty equal to 10% thereof, but not less than \$10. Promptly thereafter the village shall give the delinquent vendor written notice of the estimated tax, penalty and interest, which notice shall be served personally or by certified mail.

(3) If payments are not made by the vendor within 15 days of the notice, the Mayor shall bring an action in law or equity in the District Court for the collection of any amounts due, including without limitation penalties thereon, interest on the unpaid principal at a rate of not exceeding 1% a month, the cost of collection and reasonable attorney fees incurred in connection therewith.

(J) *Administration.* The duties assigned to the Mayor in this section may be delegated to the Department of Finance or other departments or officials in whole or in part as to the Mayor shall appear useful. Duties may be from time to time reassigned.

(K) *Advisory board.* The Mayor shall appoint an Advisory Board of five residents of the village; two of whom shall represent the lodging industry, two of whom are directly involved with tourist related industries and one member at large who shall represent the general public. The Advisory Board appointments shall be made by resolution.  
(Ord. 99, passed 3-14-1991)

**§ 110.04 ALCOHOLIC BEVERAGE TAX.**

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

**CLUB.** Any non-profit group, including an auxiliary or subsidiary group, organized and operated under the laws of the state, with a membership of not less than 50 members who pay membership dues at the rate of not less than \$5 per year and who under the constitution and by-laws 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 Department of Alcoholic Beverage Control.

**DIRECTOR.** The Director of the Department of Alcoholic Beverage Control.

**DISPENSER.** Any person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in his or her 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.

**GOVERNING BODY.** The Mayor and elected Village Board of Trustees.

**PERSON.** An individual, corporation, firm, partnership, co-partnership, association or other legal entity.

**RESTAURANT.** Any establishment having a state 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 or her possession with the intent to sell any alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises.

(B) The Governing Body, by ordinance, shall set the rates and the dates and manner of license tax payment on or before June 1 of each year. The rate set shall apply from July 1 through and including June 30 of the following year.

(C) Pursuant to the provisions of NMSA § 7-24-1, on or after the effective date of this section, no person who has been issued a state license from the department shall be given possession of the license.

(1) By the village until the person has paid the municipal license as follows:

(a) Payment in full by July 1; or

(b) Payment in four installments of equal amounts, the first of which is due and payable by July 1. Each subsequent installment shall be due and payable in equal time periods, the last of which will be no later than June 30.

<b>Tax Rates</b>	
Retailer's license	\$1,000
Dispenser's license	\$1,000
Club license	\$100
Restaurant license	\$250

(2) Per the provisions of NMSA § 60-7A-1E, license holders seeking to use their license privileges on Sunday must pay to the village an additional fee of:

<b><i>Additional Fee</i></b>	
Retailer's license	none
Dispenser's license	none
Club license	none
Restaurant license	none

(Ord. 71, passed 11-12-1981)

## TITLE XIII: GENERAL OFFENSES

Chapter

### 130. GENERAL OFFENSES

## CHAPTER 130: GENERAL OFFENSES

Section

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### ***Offenses Relating to Minors***

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130.999	Penalty

## **GENERAL PROVISIONS**

**§ 130.001 SHORT TITLE.**

This code may be cited as the "Criminal Code of the Village of Williamsburg".  
(Ord. 48, passed 12-13-1990)

**§ 130.002 LIMITATIONS OF ACTIONS.**

All prosecutions for the alleged violations of this code shall be commenced within one year after the alleged violation and shall be barred thereafter.  
(Ord. 48, passed 12-13-1990)

**§ 130.003 JURISDICTION.**

This code applies only to offenses committed within the village limits of the village, as those limits may from time to time be established.  
(Ord. 48, passed 12-13-1990)

**§ 130.004 DEFINITIONS.**

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning. The words in the plural number include the singular number and vice versa. The masculine includes the feminine gender. **PERSON** includes, but is not limited to, any natural person, whether over or under 21 years of age, firm, partnership, association, corporation, company or organization of any kind.

**ANYTHING OF VALUE.** Any conceivable thing of a slightest value, tangible or intangible, movable or immovable, corporal or incorporeal, public or private. The term is not necessarily synonymous with the traditional legal term **PROPERTY**.

**COURT.** The Municipal Court of the village.

**MAYOR.** The Mayor or his or her designated representative.

**PEACE OFFICER.** Village, county and state police officers and members of organized police or sheriff reserve units.

**POSSESS.** Includes, but is not limited to, any manner of custody, control or ownership, no matter how initiated.

**PROMOTE.** Includes, but is not limited to the words "sale", "exhibition", "loan", "circulation" or any act calculated to attract attention to a particular publication or person.

**PUBLIC PLACE.** Includes, but is not limited to, public dancehalls, pool rooms, bars, restaurants, cafés, lounges, commercial establishments patronized by the public, city, county and state or federal buildings, streets, sidewalks, parks or alleys.

**SHALL.** Mandatory and not merely directory.

**VILLAGE.** The Village of Williamsburg.  
(Ord. 48, passed 12-13-1990)

**§ 130.005 EFFECTIVE DATE.**

This code shall take effect from and after its passage and publication as provided by law.  
(Ord. 48, passed 12-13-1990)

**OFFENSES RELATING TO PUBLIC ORDER AND SAFETY**

**§ 130.020 ASSAULT.**

Assault consists of either:

- (A) An attempt to commit a battery upon the person of another;
- (B) Any unlawful act, threat or menacing conduct which causes another person to reasonably believe that he or she is in danger of receiving an immediate battery; and/or
- (C) The use of insulting language toward another, impugning his or her honor, delicacy or reputation.

(Ord. 48, passed 12-13-1990)

**§ 130.021 BATTERY.**

Battery is the unlawful, intentional touching or application of any force to the person of another when done in a rude, insolent or angry manner.

(Ord. 48, passed 12-13-1990)

**§ 130.022 CRIMINAL TRESPASS.**

Criminal trespass consists of unlawfully and with malicious intent, entering or remaining upon the lands or property of another, knowing that any consent to enter or remain has been denied or withdrawn by the person lawfully in possession of the property.

(Ord. 48, passed 12-13-1990)

**§ 130.023 UNREASONABLE NOISE.**

Unreasonable noise consists of creating any unreasonable loud, disturbing or unnecessary noise of a character, intensity or duration as to be detrimental to the repose, life or health of other, including, but not limited to, the following specific noises:

- (A) The sounding of any horn or signaling device of any motor vehicle within the village, except as a danger warning, which creates an unreasonable loud or harsh sound, or occurs for an unnecessary and unreasonable period of time. This does not include accidental or mechanical difficulty or failure;



(B) The playing of any radio, television, phonograph, musical instrument or other sound producing machine in a manner or with an unreasonable volume as to disturb the quiet, comfort or repose of any other person;

(C) The use of any motor vehicle so out of repair, or so loaded or in a manner as to create loud and unnecessary grating, grinding, rattling or other noise; and

(D) 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, merchandise or political candidate, party or platform without first obtaining a written permit from the Mayor. The Mayor shall issue written permit, subject only to reasonable standards of noise volume and hours of operation as he or she or his or her representative may adopt.

(Ord. 48, passed 12-13-1990)

#### **§ 130.024 DISORDERLY CONDUCT.**

Disorderly conduct consists of any of the following:

(A) Engaging in any public place in violent, abusive, indecent or otherwise disorderly conduct which creates a clear and present danger of violence;

(B) Maliciously making telephone call with intent to annoy or threaten another, whether or not conversation ensues;

(C) Maliciously disturbing, threatening, or in a malicious manner, intentionally striking any building or vehicle occupied by any person; or

(D) Inciting, causing, aiding, abetting or assisting in creating any riot, affray, disturbance at or within any dwelling, or building, whether public or private, or at any other public place within the village.

(Ord. 48, passed 12-13-1990)

#### **§ 130.025 UNLAWFUL ASSEMBLY.**

Unlawful assembly consists of:

(A) The gathering together or assemblage of three or more persons for the purpose of violating any of the provisions of the code or the statutes of the state or federal governments; and

(B) Refusal to obey an order to disperse within a reasonable time after being ordered by an officer shall constitute a violation of this code.

(Ord. 48, passed 12-13-1990)

#### **§ 130.026 OBSTRUCTING MOVEMENT.**

Obstructing movement consists of either:

(A) Hindering, annoying or molesting persons passing along any street, sidewalk, crosswalks or other public way; or

(B) Loitering, sitting or standing around the entrance of any church, public building, theater, commercial establishment or other place of public assemblage in any manner so as to intentionally obstruct the entrance.

(Ord. 48, passed 12-13-1990)

#### **§ 130.027 CARRYING CONCEALED DEADLY WEAPONS.**

(A) Unlawfully carrying a concealed deadly weapon consists of carrying a deadly weapon concealed in a manner making it not readily visible on the person, or in close proximity thereto, making it readily accessible for use.

(1) Nothing in this section is construed to prohibit the carrying of the weapon in a person's residence or on real property belonging to him as owner, tenant, lessee or licensee;

(2) In a private vehicle when traveling inter-city;

(3) By a peace officer as defined by state statutes; or

(4) Any unloaded firearm.

(B) **DEADLY WEAPON** means any firearm, whether loaded or unloaded; or any weapon which is capable of producing death or great bodily harm, including, but not restricted to, any types of dagger, brass knuckles, switchblade knives, bowie knives, poniards, butcher knives, dirk knives and all such weapons with which dangerous cuts can be given, or with which dangerous thrusts can be inflicted, including sword-canes, and any kind of sharp pointed canes, also slingshots, slung shots, bludgeons or any other weapons with which dangerous wounds can be inflicted.

(Ord. 48, passed 12-13-1990)

#### **§ 130.028 NEGLIGENT USE OF WEAPONS.**

Negligent use of a weapon consists of either:

(A) Unlawfully discharging a weapon within the village limits;

(B) Carrying any deadly weapon while under the influence of an intoxicant, narcotic, drug, stimulant and depressant, or by one who is incompetent;

(C) Endangering life or property of another by mishandling a deadly weapon; and

(D) Selling, loaning or furnishing any deadly weapon to a person with knowledge that the person is under the influence of any intoxicant, narcotic, drug, stimulant, depressant or to one who is incompetent.

(Ord. 48, passed 12-13-1990)

#### **§ 130.029 FALSE IDENTIFICATION.**

It is unlawful for any person to exhibit any fictitious or false registration card, identification card, note or other instrument for the purpose of consummating any transaction whatsoever within the village, for the purpose of deceiving or misleading any other person as to the true age and/or identity of the person.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.030 PROPULSION OF MISSILES.**

Propulsion of missiles consists of shooting, slinging or throwing snowballs, rocks, pellets, BB shot or any kind of object or substance whatsoever in any manner as to be reasonably likely to cause injury to any person or property.  
(Ord. 48, passed 12-13-1990)

**§ 130.031 POSSESSION OF FIREWORKS.**

(A) Possession of fireworks consists of either selling, offering to sell, owning, possessing, manufacturing, transporting or discharging any firecrackers, Roman candle, skyrocket, torpedo bomb, blank cartridge or any type or form of explosive commonly known as fireworks.

(B) Nothing herein shall prohibit the use of blank cartridges in connection with athletic or racing activities nor the village or civic organizations from sponsoring and conducting an officially supervised and controlled fireworks display; provided, the devices are proclaimed safe and sane by the Mayor.  
(Ord. 48, passed 12-13-1990)

***Cross-reference:***

*Fireworks, see §§ 90.020 through 90.028*

**§ 130.032 BARBED WIRE AND FENCES.**

(A) It is unlawful to erect or maintain any fence composed wholly or in part of barbed wire in any area other than that zoned for agricultural use.

(B) It is unlawful to erect or maintain any fence so constructed as to produce an electric shock.  
(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.033 REMOVAL OF BARRICADES.**

Removal of barricades consists of knowingly or willfully removing, destroying or interfering with any barrier, guard, light, traffic cone, flare or reflector placed before or at any dangerous place or public way.  
(Ord. 48, passed 12-13-1990)

**§ 130.034 FALSE REPORTS.**

It is unlawful for any person to intentionally make or file with the Police Department any false, misleading or unfounded report or statement concerning the commission or alleged commission of any crime.  
(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.035 CONCEALING IDENTITY.**

It is unlawful for anyone to conceal one's true name or identity or disguise one's self with the intent to obstruct, intimidate, hinder or interrupt any public officer, peace officer or any other person in the legal performance of his or her duties.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.036 FALSE ALARM.**

It shall be unlawful for any person to:

(A) Give a false fire alarm to any village, county or state official or employee; or

(B) Knowingly give a false alarm of need for rescue, police or ambulance assistance.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.037 IMPERSONATING POLICE OFFICER.**

(A) It is unlawful to wear or carry the uniform, apparel, badge, identification card or other insignia of office, or an imitation thereof, adopted for the exclusive use of duly commissioned peace officers, with the intent to deceive another.

(B) It is unlawful to falsely represent one's self as a peace officer whether by assertion, implication or exhibition of any of the items described herein.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.038 OBSTRUCTING AN OFFICER.**

It is unlawful to do any of the following:

(A) Knowingly obstruct, resist or oppose any peace officer or other duly authorized person attempting to serve or execute any process or any rules or orders of any court of the state or any other judicial writ or process; or

(B) Resist or abuse any judge, magistrate or peace officer in the lawful discharge of his or her duties.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.039 UNAUTHORIZED USE OF VEHICLE SIGNS.**

It is unlawful to display on any vehicle, moving or parked, the words "Police", "Police Department", "Village of Williamsburg Police Department", "Department of Police" or words or insignia of similar import without authority of the Mayor; provided nothing herein shall apply to any city police, state police or county sheriff vehicles.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.040 PROWLING.**

(A) It is unlawful to be concealed upon any property of another without lawful business and without the consent of the person in lawful possession of the premises.

(B) It is unlawful to enter upon any private property and look into any residence without the consent of the occupant of the residence.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.041 ESCAPE.**

(A) It is unlawful for any person who shall have been lawfully committed to any jail, to escape or attempt to escape, from such jail or from a work detail to which the person is assigned.

(B) It is unlawful for any person who has been placed under lawful arrest for the alleged commission of a violation of this code to escape, or attempt to escape, from the custody of or control of any peace officer.

(C) It is unlawful to intentionally aid any person confined or held in lawful custody or confinement to escape.

(D) It is unlawful for any peace officer, jailer or other person, in lawful custody of a prisoner, to intentionally permit the prisoner to escape.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.042 UNATTENDED FIRE.**

(A) It is unlawful to leave any fire unattended during any hour of the day or night, but burning of grass and weeds will be permitted during the hours of 8:00 a.m and 5:00 p.m., so long as there is no wind and so long as water under pressure supplied through hoses is available at the location where burning is being conducted.

(B) It is unlawful for any person to start any permitted fire unless that person first notifies dispatch at 894-7111 as to the time and location of the proposed fire.

(Ord. 48, passed 12-13-1990; Ord. 97, passed - -) Penalty, see § 130.999

**§ 130.043 NEGLIGENT BURNING.**

It is unlawful to burn weeds, grass or other materials in such a manner as to permit the same to spread to and damage adjoining property.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**OFFENSES RELATING TO PROPERTY**

**§ 130.060 CRIMINAL DAMAGE TO PROPERTY.**

It is unlawful to intentionally damage any real or personal property of the village, county, state, United States Government or of any person or business, without the consent of the owner thereof.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.061 LARCENY.**

It is unlawful to steal anything of value which belongs to another.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.062 SHOPLIFTING.**

(A) It shall be unlawful to commit any one or combination of the following acts:

(1) Willfully taking possession of any merchandise of another with the intention of converting it to one's own use without paying for it;

(2) Willfully concealing any merchandise of another with the intention of converting it to one's own use without paying for it;

(3) Willfully altering any label, price tag or marking upon any merchandise with the intention of depriving the merchant of all or some part of the value of it; and/or

(4) Willfully transferring any merchandise from the container in which 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.

(B) *Definitions.* For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

**MERCHANDISE.** Chattels of any type or description offered for sale in or about a store.

**STORE.** A place where merchandise is sold or offered to the public for sale or retail.

(C) *Presumption created.* Any person who willfully conceals merchandise on his or her person or on the person of another or among his or her belongings or the belongings of another person 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 or her belongings it shall be prima facie evidence of willful concealment.

(D) *Reasonable detention.* If any police officer, security officer or merchant has probable cause to believe that a person has willfully taken possession of any merchandise in violation of this code, and that he or she can recover their merchandise by detaining the person or taking him or her into custody, police officers, security officers or merchants may for the purpose of attempting to effect a recovery of the merchandise take a person into custody and detain him or her in a reasonable manner for a reasonable time.

(E) *Arrest.* Any police officer may arrest without warrant any person he or she has reason to believe has committed the crime of shoplifting.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.063 FRAUD.**

It is unlawful to intentionally misappropriate or take anything of value which belongs to another or to cause another to change his or her position to any extent to his or her detriment by means of fraudulent conduct, practices or representations.  
(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.064 EMBEZZLEMENT.**

It is unlawful to embezzle or convert to one's own use, anything of value with which he or she has been entrusted, with fraudulent intent to deprive the owner thereof.  
(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.065 WORTHLESS CHECKS.**

(A) It is unlawful to issue a check, draft or money order in exchange for anything of value with intent to defraud, for the payment of money upon any bank or depository knowing at the time of the issuance that the issuer has insufficient funds, credit or no account with the bank or other depository, for the payment of the check, draft or money order in full upon its presentation.

(B) In the prosecution of offenses under the Worthless Check Act (NMSA §§ 30-36-1 through 30-36-9):

(1) If the maker or drawer of a check, payment of which is refused by the bank or depository upon which it is drawn because of no account in the name of the maker or drawer in the bank, proof of the fact that the maker or drawer had no account in the bank or depository upon which the check is drawn shall be prima facie evidence of an intent to defraud and of knowledge of insufficient funds in or credit with the bank or depository with which to pay the draft; and

(2) If the maker or drawer of a check, payment of which is refused by the bank or depository upon which it is drawn because of insufficient funds or credit in the account of the maker or drawer in the bank or depository, fails, within ten days after notice to him or her that the check was not honored by the bank or depository, to pay the check in full, together with any protest fees or costs thereon, the failure shall constitute prima facie evidence of a knowledge of the insufficiency of funds in the bank or depository at the time of the making or drawing of the check and of an intent to defraud.

(Ord. 48, passed 12-13-1990)

**§ 130.066 CREDIT CARDS.**

(A) A person who takes a credit card from the person, possession, custody or control of another without the card holder's consent, or who, with knowledge that it has been so taken, acquires or possesses a credit card with the intent to use it or to sell it, or to transfer it to a person other than the issuer or the card holder, is guilty of violation of this code. Taking a credit card



without the consent includes obtaining it by conduct defined or known as statutory larceny, common law larceny by trespassory taking, common law larceny by trick, embezzlement or obtaining property by false pretenses, false promise or extortion. Any person other than card holder or issuer who by taking possession of a credit card which has been stolen, lost, mislaid or delivered by mistake with the intent to use it or to sell it or to transfer it to a person other than the issuer or the card holder is guilty of violating this code.

(B) Any person other than the cardholder or a person authorized by him or her, who with intent to defraud signs the name of another or of a fictitious person to a credit card or to a sales slip or agreement is guilty of violating this code.

(C) Any person, who with intent to defraud, uses to obtain anything of value, a credit card acquired in violation of this code or credit card which is invalid, expired or revoked, or who falsely represents that he or she is the card holder named on the credit card, is guilty of violations of this code. Each act or transaction shall constitute a separate violation of this code.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.067 RECEIVING STOLEN PROPERTY.**

(A) It is unlawful to intentionally receive, retain or dispose of stolen property knowing that it has been stolen.

(B) 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 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 or she deals.

(C) For the purpose of this section, **DEALER** means a person in the business of buying or selling goods or commercial merchandise.

(D) Whoever receives stolen property is guilty of violating this code.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.068 TAMPERING WITH VEHICLES.**

It is unlawful for any person, individually or in association with one or more persons, to:

(A) Purposely and without authority from the owner, start, or cause to be started, the engine of any motor vehicle;

(B) Purposely and maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which they were left by the owner or driver of the motor vehicle;

(C) Purposely destroy any part of a motor vehicle or cut, mash or mark or in any way destroy or damage any part, attachment, fastening or appurtenance of a motor vehicle, without the permission of the owner thereof;

(D) Purposely drain or start the drainage of any radiator or oil tank or gas tank upon a motor vehicle without the permission of the owner thereof;



(E) Purposely put any metallic or other substance or liquid in the radiator, carburetor, oil tank, grease cup, oilers, lamps, gas tanks or machinery of the motor vehicle with the intent to injure or damage the same or impede the working of the machinery thereof;

(F) Maliciously tighten or loosen any bracket, bolt, wire, nut, screw or other fastening on a motor vehicle; or

(G) Purposely release the brake upon a standing motor vehicle, with the intent to injure the machine.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.069 FALSELY OBTAINING ACCOMMODATIONS OR SERVICES.**

It is unlawful to obtain any service, food, entertainment or accommodation without paying therefor, and with the intent to cheat the owner or person supplying the service, food, entertainment or accommodations.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.070 OUTDOOR AUTOMOTIVE STORAGE.**

(A) (1) It is unlawful for any person, firm or corporation to store, place, or permit to be stored or placed on, or allowed to remain on any unoccupied or occupied land within the village limits a dismantled, partially dismantled or inoperable motor vehicle or any parts of a motor vehicle, except in zones where the activity is within the contemplated purposes of a duly licensed business under the provisions of the Zoning Code, unless the article shall be kept in a wholly enclosed garage or structure.

(2) The Truth or Consequences Police Department is hereby authorized to tow or have towed away at the owner's expense any vehicle left under circumstances which are in violation of this code.

(B) An owner or tenant may store or have upon his or her premises one dismantled or partially dismantled, or inoperable motor vehicle or parts thereof, if the vehicle is registered in his or her name; and provided the purpose thereof is for the overhaul, repair or rebuilding of the vehicle by himself or herself by others in his or her employ. No time limit shall be imposed on the repair, rebuilding or overhaul of the vehicle provided it is shown that a conscientious effort is being made to repair, rebuild or overhaul the vehicle.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.071 CAMPING ON CITY-OWNED LANDS AND PARKS.**

It is unlawful for any person to camp on any village-owned land or public parks, except during special activities designated in advance by the Village Trustees or the Village Mayor.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

## **OFFENSES RELATING TO MORALS**

**§ 130.090 GAMBLING.**

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

**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.

**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.

**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. As used in this division, **CONSIDERATION** means anything of pecuniary value required to be paid to the promoter in order to participate in the enterprise.

(B) *Exceptions.*

(1) Offers or purses, prized 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 the contests;

(2) A lottery as defined in this section; or

(3) Betting otherwise permitted by law.

(C) *Gambling.* It is unlawful to:

(1) Make a bet;

(2) Enter or remain 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) Possess facilities with the intent to conduct a lottery.

(D) *Commercial gambling.* It is unlawful to:

(1) Participate in the earning of, or operating a gambling place;

(2) Receive, record or forward bets or offers to bet;

(3) Possess facilities with the intent to receive, record or forward bets or offers to bet;

(4) For gain, become a custodian of anything of value bet, or offered to bet;

(5) Conduct a lottery where both the consideration and the prize are money, or whoever with intent to conduct a lottery possess facilities to do so; or

(6) Set up for use, for the purpose of gambling or collection, the proceeds of any gambling device.

(E) *Permitting premises to be used for gambling.* It is unlawful to:

(1) Knowingly permit any property owned, or occupied by the person or under his control, to be used as a gambling place; or

(2) Knowingly permit a gambling device to be set up for use for the purpose of gambling in a place under his or her control.

(F) *Dealing in gambling devices.* It is unlawful to manufacture, transfer commercially or possess with intent to transfer commercially, any of the following:

(1) Anything which evidences, purports to evidence or is designed to evidence participation in gambling.

(2) Any device which is designed exclusively for gambling purpose or anything which he knows is designed exclusively as a sub-assemble or essential part of the device. This includes, without limitations, gambling devices, number parts, punchboards or roulette wheels.

(3) 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.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.091 LOTTERY.**

(A) Nothing herein shall be construed to apply to any sale or drawing at any fair held in the village or for the benefit of any church, library, religious society or non-profit organization situated or being in the village. A lottery may be operated for the benefit of the organization for charitable purpose only when the entire proceeds of the lottery go into the organization or charitable purpose and no part of the proceeds go to any individual member or employee thereof.

(B) It is unlawful to operate or manage 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. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.092 ALCOHOL IN PUBLIC PLACES.**

It is unlawful to sell, serve, furnish or permit the drinking or consumption of alcoholic beverages (as defined in NMSA § 46-1-1, as amended) or to drink any alcoholic beverage in any public place or private club, or key club, whether operated for profit or not, except establishments having a license to dispense such beverages by the owner, operator, lessee or proprietor thereof.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.093 MARIJUANA.**

(A) **MARIJUANA** means all parts of the plant Cannabis Sativa L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, or sterilized seed of the plant which is incapable of germination.

(B) Unlawful possession of marijuana consists of possessing marijuana which was not obtained directly from or pursuant to, a valid prescription or order of a doctor of medicine who is active in the course of his or her professional practice, or as otherwise authorized by law.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.094 AIDING IN ILLEGAL ACTIVITY.**

It is unlawful to be found in any place where gambling or prostitution is being conducted, with knowledge of the activity or give or attempt 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. 48, passed 12-13-1990) Penalty, see § 130.999

**OFFENSES RELATING TO MINORS**

**§ 130.110 ABANDONMENT AND CRUELTY.**

(A) It is unlawful for the parent of any minor or any person who has been entrusted with, or who has assumed the care of such child, to intentionally leave the child or abandon him or her under circumstances where there is a possibility the child may suffer from neglect.

(B) It is unlawful for any parent, guardian or other person having care or custody of any child to either:

- (1) Intentionally cause or permit:
  - (a) The life of the child to be endangered;
  - (b) The health of the child to be injured; or
  - (c) The morals of the child to be impaired.
- (2) Intentionally place the child in a situation where:
  - (a) The life of the child is endangered;
  - (b) The health of the child is injured; or
  - (c) The morals of the child are impaired.
- (3) Willfully torture, torment or cruelly punish or injure the child; or
- (4) Willfully or negligently deprive the child of necessary food, clothing or

shelter.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.111 ENTICEMENT OF CHILD.**

It is unlawful to entice, persuade or attempt to persuade a child under the age of 16 to enter a vehicle, building, room or secluded place with intent to commit statutory rape, rape of a child, sodomy, aggravated sodomy, indecent exposure or abduction or prostitution (as the crimes are defined in NMSA §§ 40A-9-1 through 40A-9-11, as amended).

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

**§ 130.112 PERMITTING LOITERING OF MINORS.**

(A) It is unlawful for the owner or operator of any establishment serving alcoholic beverages to permit a person under the age of 21 years to attend, frequent or loiter in or about the premises without being accompanied by the parent, guardian or legal age spouse of the minor.

(B) Nothing herein shall be deemed to prohibit the hiring of persons under the age of 21 years as cooks, busboys or other help so long as the minor does not serve or handle any alcoholic beverage.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.113 UNLAWFULLY ASSISTING MINORS TO OBTAIN ALCOHOLIC BEVERAGES.**

(A) It is unlawful to aid or assist a person under 21 years to buy, procure, obtain or to be served any alcoholic beverage or induce any other person to sell, serve or deliver any alcoholic beverage to a person under 21 years by actual constructive misrepresentation of any facts calculated to cause, or by the concealment of which is calculated to cause the person selling, serving or delivering the alcoholic liquors to a minor or to any person for ultimate delivery to a minor, that the minor is legally entitled to be sold, served or delivered alcoholic beverages. **MINOR**, as used herein, means any person under 21 years of age.

(B) Nothing in this section shall be deemed to prohibit the consumption of alcoholic beverages by minors in the presence of their parents or legal guardians or legal age spouses. (Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.114 OFFENSES BY CHILDREN.**

It is unlawful:

(A) For any person under the age of 15 years being in any public or semi-public place without his or her parent or legal guardian between the hours of 11:00 p.m. and 5:00 a.m.;

(B) For any person 15 years of age or over, but under the age of 17, being in any public or semi-public place without his or her parent or legal guardian between the hours of 1:00 a.m. and 5:00 a.m.; or

(C) For any person under the age of 21 years to procure, purchase, attempt to purchase or possess any alcoholic beverage.

(D) Divisions (A) and (B) of this section do not apply to a minor who is:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(9) Married or had been married or had disabilities of minority removed in accordance with state law.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.115 FAILURE OF PARENTAL RESPONSIBILITY.**

It is unlawful for any parent or legal guardian to knowingly permit his or her child or ward to violate any of the provisions of this code.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.116 ABANDONMENT OF DANGEROUS CONTAINERS.**

It is unlawful to abandon, discard or to keep in any place accessible to children any refrigerator, icebox, freezer, air-tight container, cabinet or similar container of capacity of one and one-half cubic feet or more, which is no longer in use, without having the attached doors, 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.

(Ord. 48, passed 12-13-1990) Penalty, see § 130.999

### **§ 130.999 PENALTY.**

(A) Any person convicted of a violation of this chapter shall be punished by a fine of not more than \$500 or by imprisonment not exceeding 90 days or both.

(B) Any person who violates § 130.093 in possession of one ounce or less of marijuana is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than \$50, nor more than \$500, and by imprisonment of not more than 15 days.

(Ord. 48, passed 12-13-1990)

## **TITLE XV: LAND USAGE**

### **Chapter**

### **150. BUILDING REGULATIONS; CONSTRUCTION**

**151. SUBDIVISIONS**

**152. FLOOD DAMAGE PREVENTION**

**153. ECONOMIC DEVELOPMENT**

**154. ZONING**

## **CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION**

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Section

***General Provisions***

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### **GENERAL PROVISIONS**

#### **§ 150.01 STREETS; EXCAVATION, RESTORATION AND THE LIKE.**

(A) The office of the Mayor must receive prior notification before any individual, company, firm, corporation, or municipality excavates any street, easement, or alley for the purpose of installing or repairing any gas, water, telephone, cable, or electrical line.

(B) Final repair or restoration of the street, easement or alley must be as follows:

(1) If the street is paved, a cement patch not less than six inches in thickness must be installed.

(2) Streets having a prime coat and a one-course surface must be repaired with either hot or cold asphalt.



(3) Streets having a surface of fine gravel and chat must be repaired with the same materials and properly compacted.

(C) A check of the repair work shall be made by the office of the Mayor to determine if additional work is required

(D) During repairs or installation of new lines or cables, the site must be adequately barricaded to prevent any possible injury to pedestrians and to vehicles and their occupants. Flashing lights are mandatory at night.

(Ord. 56, passed 11-10-1997)

## **§ 150.02 ADOPTION OF CODES.**

(A) The Uniform Building Code of the State of New Mexico, 2006, edition, is hereby adopted by reference, with the exception of § 304, Table No. 3-A-Building Permit Fees, by the village, as by law provided.

(B) The Uniform Plumbing Code of the State of New Mexico, 2006 edition, is hereby adopted by reference by the village, as by law provided.

(C) The Uniform Mechanical Code of the State of New Mexico, 2006 edition, is hereby adopted by reference by the village, as by law provided.

(D) Ord. 54 of the village, "An Ordinance Establishing the Office of Village Building Inspector and Regulating Land Uses in a Federally-established Floodplain, in Accordance with the Requirements of the U.S. Department for Housing and Urban Development, and Repealing Ordinance No. 46", shall take precedence over any rules and regulations established by the Uniform Building Code, Uniform Mechanical Code and Uniform Plumbing Code of the state. (Ord. 62, passed 11-13-1980; Ord. passed - -1990)

## **§ 150.03 UNIFORM FIRE CODE.**

The Uniform Fire Code of the State of New Mexico, 2003 edition, is hereby adopted by reference by the village, as by law provided.

(Ord. 103, passed 12-14-1995)

# **BUILDING AND STREET NUMBERING**

## **§ 150.20 UNIFORM NUMBERING SYSTEM ESTABLISHED.**

There is hereby established a uniform system for numbering buildings fronting on all streets, avenues and public ways in the village and all houses and other buildings shall be numbered in accordance with the provisions of this subchapter.

(Ord. 89, passed 10-13-1988)

## **§ 150.21 BASELINES FOR DIVIDING VILLAGE.**



(A) Broadway Street shall constitute the baseline which will divide the village into northern and southern parts. Hereafter all streets north of this baseline and running generally in a northerly-southerly direction shall be considered "north" streets and likewise all streets south of this baseline and running in a generally northerly-southerly direction shall be considered "south" streets.

(B) The east village corporate boundary (being 125 feet east of Doris Avenue) shall be considered the baseline for numbering in a westerly direction or running in a generally westerly direction. All streets running of and generally in a easterly-westerly direction shall be considered "west" streets.

(1) Each building north of Broadway (Highway No. 85) and facing a street running in a northerly direction shall carry a number indicating its location north of the base street.

(2) Each building south of Broadway Street (Highway No. 85) and facing a street running in a southerly direction shall carry a number and address indicating its location south of the base street.

(3) Each building west of east village corporate boundary (being 125 feet east of Doris Avenue) and facing a street running in a westerly direction shall carry a number and address indicating its location west of the base street.

(4) All buildings on diagonal streets shall be numbered the same as buildings on northerly and southerly streets if the diagonal runs more from the north to south and the same rule shall apply on easterly and westerly streets if the diagonal runs more from east to west.  
(Ord. 89, passed 10-13-1988)

#### **§ 150.22 BASIS FOR ASSIGNING NUMBERS.**

(A) The numbering of buildings on the streets shall begin at the baseline. All buildings on the south side of east/west streets and east of north/south streets shall bear even numbers and likewise all buildings on the north side of east/west streets and west side of north/south streets shall bear odd numbers.

(B) A block interval system shall be used with individual numbers being assigned to lots.

(1) A multiple-family dwelling having only one main street entrance shall be assigned only one number and separate apartments in the building will carry letter or number designations in addition to the number assigned to the main entrance of the building.

(2) Any duplex houses having two front entrances shall have a separate number for each entrance. If both entrances fall within the same increment, either the preceding number or the next higher number shall be used for one entrance number, and the interval used for one entrance number, and the interval number in which the entrances fall shall be used for the other entrance.

(Ord. 89, passed 10-13-1988)

#### **§ 150.23 BUILDING FACING SHORT STREETS.**

All buildings facing streets not extending through to the baseline shall be assigned the same relative numbers as if the street had extended to the baseline.  
(Ord. 89, passed 10-13-1988)

#### **§ 150.24 DIRECTIONAL DESIGNATION.**

In addition to the numbers placed on each house or other buildings as heretofore provided, all streets, avenues and other public ways within the village are hereby given the following directional designation.

(A) All streets north of Broadway Street and running in a generally northerly direction are given the direction of "north" as part of the street name.

(B) All streets south of Broadway Street and running in a generally southerly direction are given the direction "south" as part of the street name.

(C) All streets west of east village corporate boundary (being 125 feet east of Doris Avenue) and running in a generally westerly direction are given the direction "west" as part of the street name.

(Ord. 89, passed 10-13-1988)

#### **§ 150.25 NUMBER ASSIGNMENT; PLACEMENT ON BUILDINGS.**

(A) There shall be assigned to each house and other residential or commercial buildings located on any street, avenue or public way in the village, its respective number under the uniform system provided for this subchapter. When each house or building has been assigned its respective number or numbers, the owner, occupant or agent shall place or cause to be placed upon each house or building controlled by him or her the number or numbers assigned under the uniform system as provided.

(B) Such numbers shall be placed on all appropriate existing buildings within 30 days after the assignment of a permanent number. The numbers used shall not be less than three inches in height and shall be made of a durable and clearly visible material.

(C) The numbers shall be conspicuously placed so that the number can be seen plainly from the street line. Whenever any building is situated more than 50 feet from the street line the numbers shall appear near the walk, driveway or entrance to the buildings, so as to be easily discernible from the sidewalk.

(Ord. 89, passed 10-13-1988)

#### **§ 150.26 PLAT BOOK; FACILITATING CORRECT NUMBERING.**

A plat book of all streets, avenues and public ways within the village showing the proper number of all houses or other buildings fronting upon all streets, avenues or public ways shall be kept on file in the office of the Village Clerk/Treasurer. These plats shall be open to inspection by any person during the office hours of Village Hall. Duplicate copies of the plats shall be furnished to the Village Building Inspector by the Village Clerk/Treasurer.

(Ord. 89, passed 10-13-1988)

**§ 150.27 DUTIES OF CLERK/TREASURER.**

(A) It shall be the duty of the Village Clerk/Treasurer to inform any applicant of the number or numbers belonging to or embraced within the village limits of any such lot or property as provided in this subchapter. In case of conflict as to the proper number to be assigned to any building, the Village Clerk/Treasurer shall determine the number of the buildings.

(B) Final approval of any structure erected, repaired or altered or modified shall be withheld by the Village Building Inspector until permanent and proper numbers have been affixed to the structure.

(Ord. 89, passed 10-13-1988)

**§ 150.28 APPROVAL REQUIRED BY NEW STREET NAMES.**

(A) Everyone submitting a subdivision plat to the Village Governing Body for their approval shall show the proper names of any and all streets and these street designations shall be approved by the Village Governing Body before the new streets are officially named.

(B) Street name suggestions may originate with the parties submitting the plat under the guidance of Village Clerk/Treasurer or other Village Governing Body designee.

(Ord. 89, passed 10-13-1988)

**§ 150.29 CHANGING, RENAMING OR NAMING EXISTING STREETS.**

The Mayor and Board of Trustees by resolution may change, rename or name an existing or newly established street within the limits of the village, at any time upon recommendation of the Village Clerk/Treasurer or any other Village Governing Body designee.

(Ord. 89, passed 10-13-1988)

**§ 150.99 PENALTY.**

(A) Whoever violates any provision of this chapter where no other penalty is provided shall be subject to § 10.99.

(B) Any person, firm, corporation, company or municipality found to be in violation of § 150.01 shall, upon conviction of violation, be subject to a fine of not less than \$100, nor more than \$300.

(C) Any person convicted of a violation of § 150.02 or provisions of the State Uniform Building Code, Uniform Plumbing Code or Uniform Mechanical Code shall be punished by a fine of not more than \$300 or by imprisonment not to exceed 90 days or both.

(D) Any person convicted of a violation of § 150.03 or provisions of the State Uniform Fire Code shall be punished by a fine of not more than \$500 or by imprisonment not to exceed 90 days or both.

(E) Any person found guilty of violating the provisions of §§ 150.20 through 150.29 requiring that he or she renumber and/or post the number of his or her home or other building in a conspicuous place as directed by §§ 150.20 through 150.29 or who otherwise refuses to

cooperate with the renumbering of their home or building or the renaming of their street shall be guilty of a petty offense, pursuant to the provisions of NMSA § 3-17-1 and, upon conviction thereof, shall be sentenced to pay a fine in a maximum fine as the state statutes shall provide from time to time. Each day that a violation continues shall be a desperate offense punishable as hereinabove described.

(Ord. 56, passed 11-10-1977; Ord. 62, passed 11-13-1980; Ord. 89, passed 10-13-1988; Ord. 103, passed 12-14-1995)

## **CHAPTER 151: SUBDIVISIONS**

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### Section

151.01	Title
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151.04	Definitions
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151.07	Platting procedure and requirements
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151.10	Occupancy permit
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### **§ 151.01 TITLE.**

This chapter shall be known as the "Subdivision Code" of the village.  
(Ord. 78, passed 4-12-1984)

### **§ 151.02 JURISDICTION.**

Whenever any subdivision of land shall hereafter be laid out within the incorporated limits of the village or within contiguous territory and not more than three miles beyond the incorporated boundary of the village, the subdivider thereof, or his or her agent, shall submit both a preliminary plan and a final subdivision plat to the village. The plans and plats proposed improvements, and all procedure relating thereto, shall in all respects be in full compliance with the regulations hereinafter contained in this chapter.

(Ord. 78, passed 4-12-1984)

**§ 151.03 APPROVAL; INTERPRETATIONS; EXCEPTIONS.**

(A) No land shall, after the adoption of these regulations, be subdivided into three or more lots or parcels or filed for record, nor any street laid out, nor any improvements made to the land, until the final plat of the subdivision or street improvements shall have been certified to and approved by the action of the Board of Trustees of the village. This approval must be in writing and placed on the original reproducible tracing of the final plat according to the procedure outlined herein.

(B) No improvements, such as sidewalks, water supply, storm water drainage sewerage facilities, gas service electric service or lighting, or grading, paving or surfacing of streets, shall hereafter be made within any such subdivision by any owner, or owners or his, her or their agent, or by public service corporation at the request of the owner or owners or his, her or their agent until the final plat for the subdivision and also plans for improvements thereto have been formally recommended and approved by the Board of Trustees.

(C) Subdivisions of land located outside the village and within three miles of the village incorporated limits, shall also be required to conform with the requirements of this chapter or the regulations of the county, whichever requirements are the most stringent.

(D) (1) When a trace of land proposed for subdivision constitutes a part of a larger landholding in one parcel owned by the subdivider, an overall plan development shall be prepared and submitted by the subdivider, in the form of a preliminary plan. A final plat may then be prepared for such portions of the parcel as the subdivider proposes to develop immediately.

(2) Where a tract of land proposed for subdivision is a part of a larger logical subdivision unit in relation to the village as a whole, and that unit is not owned by the subdivider of the part, the Board of Trustees may prepare a possible plan of the entire area; the plan to be used as an aid in judging the proposed preliminary plan. The Village Building Inspector shall cooperate with the village in the preparation of this plan and shall furnish or cause to be furnished, the surveys and data as may be deemed necessary.

(E) The Board of Trustees may vary and make exceptions as set forth herein in instances where there is sufficient evidence, in its opinion, of hardship caused by topographic conditions, or where any other reasonable deterrents to full compliance with the subdivision regulations prevail, provided the variations or exceptions are in substantial conformance with the recommendations of the master plan.

(Ord. 78, passed 4-12-1984)

**§ 151.04 DEFINITIONS.**

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

**ALLEY.** A strip of land, 20 feet in width along the side of or in the rear of properties, intended to provide a secondary means of access to these properties.

**BOARD OF TRUSTEES.** The Mayor and four elected officials comprising the Board of Trustees.

**BUILDING LINE.** The line nearest the front and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way.

**COLLECTOR OR NEIGHBORHOOD STREET.** A street which is used to carry traffic from local residential service streets to primary arterials and highways, including the principal entrance streets to a residential development or neighborhood service streets within the development or neighborhood.

**CUL-DE-SAC.** A street having one open end and being permanently terminated by a vehicle turn-around.

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

**FINAL PLAT.** The drawings and documents described herein.

**LOCAL-RESIDENTIAL SERVICE STREETS.** Local service streets to provide direct access to adjacent land and to route or feed local traffic into the collector and arterial systems. They are dual-lane facilities with access as required to serve abutting land.

**LOT.** A portion of a subdivision or other parcel of land intended for transfer of ownership or for building development.

**MAJOR HIGHWAY OR PRIMARY TRAFFIC STREET.** A street of major continuity which serves or is intended to serve as a major traffic artery between various sections of the village and which serves to link the village with other municipalities and areas outside the corporate limits.

**PLANNING BOARD.** The Board of Trustees of the village.

**PRIMARY ARTERIALS** or **MINOR TRAFFIC STREETS.** A street of considerable continuity which serves or is intended to serve as a secondary traffic artery between major traffic generating land use of the village.

**PUBLIC STREET.** All streets which are shown on a subdivision plat and are to be dedicated for public use.

**PROTECTIVE COVENANTS.** The same as deed restrictions or sales contract.

**SUBDIVIDER.** The person responsible for preparing and recording the plat of the subdivision and for carrying out all appropriate requirements outlined in these regulations for the subdividing of land.

**SUBDIVISION.** The purposes of these regulations shall mean either:

- (1) The division of land into three or more lots, sites or parcels;
- (2) The establishments or dedication of a road, highway, street or alley through a tract of land; or
- (3) The re-subdivision of land heretofore divided or platted into lots, sites or parcels, excepting that the sale or exchange of parcels of land to or between property owners, where the sale or exchange does not create additional lots or building sites shall not be considered as a subdivision.

**VILLAGE.** The Village of Williamsburg, New Mexico.  
(Ord. 78, passed 4-12-1984)

## **§ 151.05 DESIGN STANDARDS.**

(A) *Street plan.* The subdivision of land, including the arrangement, character, extent and width of all streets, alleys or other land to be dedicated for public use shall conform to the transportation, parking and traffic plan as submitted with the overall master plan as approved and adopted by the Board of Trustees.

(1) All rights-of-way shall conform to the following minimum dimensions:

<b><i>Street Classification and Type</i></b>	<b><i>Width of Right-of-way</i></b>
Major highway or primary traffic street	100—110 feet
Primary arterials or minor traffic street	70—80 feet
Local collector street	60—70 feet
Local service street	Not less than 50 feet
Alley	20 feet
Utility easement	10 feet or as required
Cul-de-sac turn-around	70 feet

(2) Residential streets shall be so laid out that their use by through traffic will be discouraged.

(3) Street jogs with center line offsets of less than 125 feet shall be avoided.

(4) It must be evidenced that all street intersections and confluences encourage safe traffic flow.

(5) The maximum length cul-de-sac shall be 500 feet measured along the center line from the intersection at origin through center of circle to end of right-of-way.

(6) Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and where the Board of Trustees or Building Inspector finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be planned within the tract. No strip or area shall be reserved along any portion of a street, half street or alley, which will prevent adjacent property owners access thereto.

(7) No street designations may be used which will duplicate or be confused with the designation of existing streets.

(8) If the tract of land proposed to be subdivided or any part thereof lies adjacent to a highway over which the Division of Highways of the state has jurisdiction with respect to maintenance and upkeep thereof, and an entrance or entrances are desired from the highway to lots, streets or roadways or alleys in such proposed subdivision, the subdivider shall submit to the Board of Trustees a written permit from the Division of Highways, granting him or her permission to obtain and construct such an entrance or entrances.

(B) *Easements.*

(1) Easements of not less than five feet in width shall be provided on each side of all rear lot lines where no alley is provided, and along side lot lines where necessary, for conduits, electric lines, storm and sanitary sewers, gas, water and other mains. Easements for greater width may be required along or across lots when necessary for extension of main sewers or other utilities or where both water and sewer lines are located in the same easements. A two-foot easement shall be required on one side and adjacent to an alley to accommodate pole lines.

(2) Whenever a subdivision is traversed by a water course, drainage way, channel or stream, the subdivider shall at his or her own expense make adequate provision for straightening or widening the channel so that it will properly carry the surface water, and shall also provide and dedicate to the village, an easement along each side of the stream or drainage way, which easement shall be for the purpose of widening, improving or protecting the stream or drainage way. The width of such easement shall not be less than 20 feet and shall be computed from the outside boundaries of the channel lines or ditches. Further, the total width of the easement shall be adequate to provide for any necessary channel relocations and straightenings. This easement must be in addition to the required yard set-back requirements of each respective zoning district.

(C) *Block standards.* No specific rule concerning the length or shape of blocks is made, however, care should be taken not to exceed 1,500 feet in block length. Blocks must fit easily into the overall plan of the subdivision and their design must evidence consideration of lot planning, traffic flow and public areas.

(D) *Lot standards.*

(1) The minimum lot area and width shall conform to the requirements of the Zoning Code of the village, some of which are reproduced as follows:

(a) R-1 District: (Single-family Residential) 7,500 square feet; minimum lot width 60 feet at the building line.

(b) R-2 District: (Single and Two-family Residential) 4,000 to 5,000 square feet depending on number of residences; minimum lot width 50 feet at the building line.

(c) R-3 District: (Single, Two and Multiple Family Residences) 4,000 to 5,000 square feet depending on number of residences; minimum lot width 50 feet at the building line.

(2) Corner lots shall be sufficiently larger than interior lots to allow for maintenance of building lines of both streets.

(3) All lots shall abut on a dedicated public street.

(4) Lots abutting an irrigation ditch, water course, drainage way, channel or stream, shall have additional minimum width and depth as required to provide an adequate building site, drainage way, easements and afford the minimum useable area required in the Zoning Ordinance for front, rear and side yards.

(5) (a) Lots proposed for platting which cannot reasonable be served by either a public sanitary sewer or water system shall have a minimum width of 100 feet measured at the building line, and a minimum total area of 20,000 square feet. Lots that can reasonably be served by either a public water system or by a public sewer system but not by both, shall have a minimum width of 75 feet measured at the building line, and a minimum area of 10,000 square feet. The above mentioned lot sizes for lot served by private sewage or water systems shall be checked by the Public Health Officer. If data from soil percolation tests indicate a need for larger parcel of land, then the Public Health Officer shall so specify the size.

(b) In case of unusual soil conditions or other physical factors which may impair the health and safety of the neighborhood in which a subdivision may be located, upon recommendation of the State Department of Public Health, the Board of Trustees may increase lot area requirements as may be necessary.

(E) *Parks, playgrounds, school grounds and other public areas.* Where a proposed park, playground, school or other public area included within the duly adopted official master plan for the village is located in whole or in part in an area being subdivided, the Board of



Trustees may reserve the land for a period of 15 days from the date the preliminary plan is submitted to them. When the reservation is made, the Board of Trustees shall have to the expiration of the 15-day period, the opportunity to negotiate with the subdivider for the purchase, option, grant or otherwise, of the reserved land. Final negotiations need not be completed until 20 days after the date the final plat of the subdivision is submitted to the Board of Trustees.

(F) *Drainage standards.* It shall be the responsibility of the developer to ensure to the satisfaction of the governing official or their appointed representatives, that all subdivisions shall be properly drained so they do not contribute to the flooding or poor drainage of surrounding properties.

(Ord. 78, passed 4-12-1984)

#### **§ 151.06 LAND IMPROVEMENTS; DESIGN AND CONSTRUCTION STANDARDS.**

No subdivision of land shall be approved without complying with the following minimum required land improvements.

(A) *Sewers.*

(1) The minimum size of all sanitary sewer mains shall not be less than eight inches in diameter. Pipe, couplings, gaskets and fittings shall meet all the requirements of ASTM D-3034. Pipes and fittings shall be made of clear virgins NSF approved Type 1, Grade 1 (PVC 1130) PVC, conforming to ASTM resin specification D1784. Pipe shall meet requirements as set forth in Commercial Standard CS 256-63 with standard dimension ratio SDR 35.

(2) The subdivider or developer shall pay all costs of mains from existing village sewer facilities to the subdivision in question for platting, and shall pay all costs of expansion for the sewer collection system to the end of his or her holdings and furnish the necessary loops and collection laterals for servicing the proposed development.

(3) The spacing of manholes shall be approximately 300 feet.

(4) All sewer mains (eight inches and larger) shall be terminated in a manhole, except that a main of less than 100 feet in length may end in a "clean out" which rises to the surface of the pavement and is capped by a metal removable cover.

(5) All service connections shall join the mains with a wye connection which shall be at an angle of at least 45 degrees from the horizontal.

(6) Leakage of sub-surface water into sewer mains shall not be more than 10,000 gallons per mile of main per day.

(7) (a) Minimum grades for sewer mains and collectors shall not be less than the following:

8-inch	0.40%
10-inch	0.30%
12-inch	0.25%

(b) Grades shall be so designed as to furnish a minimum velocity of two feet per second at peak daily flow.

(8) Selected backfill of sand or earth shall be used around all sewer mains for at least 12 inches with the maximum size rock, cobble, or stone not to exceed two inches in diameter.

(9) Manholes shall be constructed at all changes of alignment and grade and shall not be more than 300 feet apart. In areas having substantial ground water, the exterior walls of the manholes shall be plastered or covered with an asphalt water-proof membrane. All covers in the roadways shall be of a class to withstand the anticipated wheel loads. Covers and rims shall be grounded to ensure full bearing for the entire circumference.

(10) Service lines shall be constructed to each dwelling unit and shall contain ample provisions for cleaning of the upper end.

(11) Sewer service lines shall be permanently located on the curb with a suitable impression and all service lines shall connect at right angles to the sewer mains.

(12) Inspection of new sewer pipe installation shall include checks on alignment and grade; caulking and grouting of the entire circumference of each joint; displacement of pipe during the back filling of the operations; and continuity of flow at manholes.

(B) *Water.*

(1) (a) The minimum size for all water main extensions shall not be less than six inches in diameter and shall be of cast iron, bell and spigot type, or of transite or other similar approved materials.

(b) If the Board of Trustees should determine that a larger line is required to adequately provide for future expansion, then the developer shall pay the difference in cost between the minimum acceptable size and the larger size as required.

(2) The subdivider or developer shall pay all costs for extending water mains from existing village water facilities to the subdivision in question for platting, and shall pay all costs of extension of water mains, water hydrants and laterals to the end of his or her holdings; and in addition, he or she shall provide the necessary loops and cross-laterals for servicing the proposed development. The additional cost for over-sized lines will be paid for by the village.

(3) Before the individual service lines are connected to the water main, the necessary water tap deposit shall be made in compliance with the State Plumbing Code.

(4) Concrete thrust blocks shall be used at all changes of direction, junctions and fire hydrant locations.

(5) Minimum ground cover for water mains and service connections shall be not less than 36 inches.

(6) (a) Valves shall be located in such manner as to adequately control the water lines and shall be generally integrated into the system as follows:

1. Three valves used at all four-way crosses;
2. Two valves at all tee connections; and
3. One valve used on each fire hydrant assembly.

(b) Straight runs of distribution main shall have one valve spaced at 500 feet maximum.

(7) Fire hydrants shall be of the "freeze-proof" design constructed of cast iron pipe assemblies, and shall be spaced not more than 360 feet from each other. At least two cubic feet of crushed rock or gravel shall be used at each hydrant to provide free drainage.

(8) Selected backfill of sand or earth shall be used around all water mains for at least 12 inches with maximum size rock, cobble or stone not to exceed two inches in diameter.

(9) Water service lines shall be permanently located on the curb with a suitable impression and all service lines shall connect at right angles to the water main.

(10) Water meter boxes and valve risers and covers shall be used at all locations. The boxes and covers shall be of a design as approved by the village.

(C) *Storm drainage.*

(1) Minimum size of storm drain conduit or pipe shall not be less than 18 inches.

(2) Drop inlets for street drainage shall be so placed as to intercept storm water above or before pedestrian crossings.

(3) Concentrated channels of storm drainage when crossing asphalt roadways shall be concrete valleys of at least eight inches thick and extending five feet on each side of a normal water elevation.

(4) Drop inlets shall be of the "self-cleaning" type with provisions in the design for removal of grates or covers for maintenance.

(5) Clean-out boxes or inlets shall be used at all changes of alignment in storm drains.

(D) *Street improvements.*

(1) Grades shall not exceed 6% on primary arterials or minor traffic streets, nor in excess of 8% on other streets, nor have a grade of less than 0.4%, unless special provisions are made for storm drainage.

(2) All streets with the corporate limits of the village shall be improved with roadways, bounded by integral concrete curbs and gutters to an overall width in accordance with the following dimensions:

<b><i>Street Classification</i></b>	<b><i>Minimum Pavement Width</i></b>
Major highway or primary traffic street	64—Medium Barrier
Primary arterials or minor traffic streets	44—52
Residential collector street	44
Residential service street	34
Cul-de-sac	34
Cul-de-sac turn around	50 radius

(3) Residential service streets shall be surfaced with two inches of hot mix in a stabilized base of not less than six inches thick. Residential collector streets shall be surfaces with a "double penetration" on a stabilized base of not less than six inches. Primary arterials or minor traffic streets shall be improved with three inches of hot mix on a stabilized base of not less than eight inches of soil cement. Concrete in lieu of hot mix shall be eight inches reinforced.

(4) Curbs and gutters on collector and residential service streets if of the integral rolled-type unit, shall be not less than 24 inches in overall width and not less than seven inches thick where curb abuts the street pavement. A right angle curb and gutter unit shall be used on streets designed to carry the major portion of the run-off of a subdivision.

(5) All curb corners shall have radii of not less than 15 feet and at important intersections, not less than 25 feet.

(6) Minimum tangents on reverse curves shall not be less than 100 feet.

(E) *Public utilities.*

(1) All utility lines for telephone and electric services shall be placed in rearline easements when carried on overhead poles.

(2) Where telephone and electric service lines are placed underground entirely throughout a subdivided area, said conduits or cables shall be placed within easements or dedicated public ways, in a manner which will not conflict with other underground services. Further, all transformer boxes shall be located so as not to be unsightly or hazardous to the public.

(3) The subdivider or developer shall, at the request of the Board of Trustees, pay all costs for extension of electrical service from existing electrical facilities to his or her subdivision.

(4) No utilities required to be installed by the subdivider will be accepted by the village until receipt of a written certification signed by a licensed plumber, registered electrical engineer (in the case of underground electric), appropriate gas company of the state official or other qualified persons certifying the safety and proper installation of the respective utility. Partial completion may be accepted by the Board of Trustees for approval on a case, by case basis; provided, as to electric that all connections are made according to the national and state made on partial completions and no connections are made beyond the partial completion. Further, underground electric services shall not be placed in the same ditch with any other utility and temporary service will be provide only overhead at the contractor's or builder's expense.

(G) *Sidewalks.*

(1) Concrete sidewalks, a minimum of four feet in width, shall be constructed along both sides of every street shown on the plat of a subdivision.

(2) Sidewalks may be placed adjacent to the curb.

(H) *Street lighting.* Provisions shall be made by the subdivider for the adequate lighting of public streets within the proposed subdivision, in accordance with the standards and requirements established by the governing authorities.

(I) *Street signs.* Provision shall be made by the subdivider to furnish street signs for all intersections with the subdivision as approved by the governing authorities.

(J) *Privately-developed facilities.* Where the subdivision is to contain sewage facilities, water supply systems, park area or other physical facilities which will not be maintained by existing public agencies, provision shall be made by trust agreement, which is a part of the deed restrictions and which is acceptable to the proper public agencies, for jurisdiction over the continuous maintenance, supervision, operation and reconstruction of the facilities by the lot owners in the subdivision.

(K) *Nuisances.* Adequate provisions shall be made for the prevention of nuisances including watering to control blowing dust any time the natural ground surface is disturbed and further to control the erosion, drainage, siltation or any other factors which might adversely affect other persons or adjoining property owners.

(Ord. 78, passed 4-12-1984)

## **§ 151.07 PLATTING PROCEDURE AND REQUIREMENTS.**

(A) Procedure for filing preliminary plans.

(1) (a) A preliminary plan in the form of four black line prints from a penciled or other tracing may be filed with the Board of Trustees not less than seven working

days, nor more than 17 days, before the meeting of the Board at which it is desired that the preliminary plan be approved. One print shall immediately be submitted to the Building Inspector who shall within three days of the date of receipt thereof, return the print to the Board of Trustees, together with a list of comments, suggestions or recommendations he or she may see fit to make including provisions for water ways, drainage ways, street gradients, sewage disposal and other engineering problems.

(b) It must be noted that under the state's permissive legislation, a preliminary plan is not required; however, subdividers are urged to submit the preliminary plans in order to avoid possible loss of time or money by reason of disapproval of the final plat.

(2) The preliminary plan shall include and show the following:

- (a) Proposed name of subdivision;
- (b) Location by township, range, section or by other legal description;
- (c) Names and addresses of the owners of record, developer and plan designer;
- (d) Scale of plan, one inch to 100 feet or larger;
- (e) Date;
- (f) North point;
- (g) Boundary line of proposed subdivision indicated by a solid heavy line and the total approximate acreage encompassed thereby;
- (h) Location, width and names of all existing or prior platted street rights-of-way or other public ways, and utility rights-of-way, parks and other public open spaces;
- (i) Existing sewers, water mains, culverts or other underground facilities within the tract or adjacent to the tract, indicating pipe sizes, grades, manholes and exact location;
- (j) Existing zoning or proposed subdivision and application for proposed zoning change if the change is necessary or desired by the subdivider;
- (k) Contours at five-foot intervals;
- (l) Layout of streets, widths of rights-of-way and also widths of easements;
- (m) Layout of approximate lot dimensions and number of lots; and
- (n) Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of the property owners in the subdivision.

(3) Upon approval, conditional approval or disapproval of a preliminary plan by the Board of Trustees, one black line plan will be returned to the subdivider along with any recommendations made by the governing bodies or officials thereof. Approval of a preliminary plan will be effective for one year unless extended by the Board of Trustees.

(B) *Final plat.*

(1) The final plat shall include the following items and shall be based on a transit- tape survey made in accordance with good engineering practice.

- (a) Name of subdivision;
- (b) Location by township, range, section or by other legal description;
- (c) Names of owners and certification by licensed surveyor;
- (d) Scale one inch to 100 feet;
- (e) Date;
- (f) North point;

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- (g) Boundary of plat, based on an accurate traverse, with angles and lineal dimensions, and supporting closure mathematics;
- (h) Exact location, width and name of all street rights-of-way within and adjoining the plat;
- (i) Certified survey showing dimensions to property lines and accessibility to public streets;
- (j) Profiles of all paved or improved streets, curbs, and alleys in the proposed subdivision. Elevations shall be referred to a permanent recorded bench mark of the village;
- (k) True angles and distances to the nearest established official monument, which shall be accurately described in the plat. The survey shall be made under the supervision of a registered land surveyor or a civil engineer;
- (l) Radii, internal angles, points and curvatures, tangent bearings and lengths of all areas;
- (m) All easements for rights-of-way provided for public service utilities;
- (n) All lot numbers and lines, with accurate dimensions in feet and hundredths;
- (o) Permanent monuments shall be placed at all corners and points of tangency of curve lines along the boundary of the subdivision. Also center line monuments shall be required at the intersection of every other block, but not to exceed an interval of 1,500 feet;
- (p) Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for common use of all property owners;
- (q) Building set back lines accurately shown by dimensions;
- (r) Protective covenant, deed restrictions or sales contracts;
- (s) Certification by a registered surveyor;
- (t) Notarized certification, by owner or owners of the adoption of the plat and the dedication of streets and other public areas as required by the state statute. (The notarized certification shall be filed and recorded in the office of the County Clerk.)
- (u) Proper form for approval by signatures of the Board of Trustees.

Such as:

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\_\_\_\_\_  
Mayor, Village of Williamsburg  
Approved by the Board of Trustees at a meeting held

---

\_\_\_\_\_  
Village Clerk

(v) After approval of the preliminary plan by the Board of Trustees and the fulfillment of the requirements of these regulations herein presented, one reproducible tracing of the final plat of the subdivision, drawn in ink on tracing cloth shall be submitted to the Board of Trustees for approval. Four copies shall be submitted. Submission of a plat shall be at least ten days before the meeting of the Board of Trustees at which it is desired that the final plat be approved.

(w) Action on the final subdivision plat must be taken by the Board of Trustees within 35 days after the submission of the plat; otherwise, the plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Board of Trustees on demand.

(x) Before final approval of any plat, there shall be submitted to the Board of Trustees a certificate, under the bond and seal of the County Treasurer or a certificate by a duly qualified abstract company, that all delinquent taxes against the land included in the preliminary plat are fully paid.

(y) The approval of the final plat by the Board of Trustees shall not be deemed to constitute that the village or any of its officers or officials shall be liable for the development of any such street or public area that is indicated on the plat.

(z) Approval of the final plat by the Board of Trustees shall be null and void if the plat is not recorded within one year after the date of approval.

(aa) After filing of the final plat with the County Clerk as approved by the Board of Trustees, the subdivider shall have two black and white prints of the plat as recorded and stamped by the County Clerk. The two prints shall be filed with the Board of Trustees.

(bb) After approval of the final plat no lot shall be further subdivided into more than three parts unless said lot is replatted. In the event a lot or parcel of land once platted is divided, said parts must be in conformance with minimum lot standards set forth in the Zoning Code.

(Ord. 78, passed 4-12-1984)

#### **§ 151.08 AGREEMENTS.**

The final plat to be filed for record shall be accompanied by a statement signed by the owner or owners and subdivider, setting forth the following:

(A) An agreement executed by the owner and subdivider wherein they agree to make and install the improvements provided for in the final plat and in accordance with the provisions of this chapter.

(B) A bond in the amount of the estimates of the cost of the installation of all proposed improvements with good and sufficient survey spelled out thereon to be approved by the Board of Trustees.

(Ord. 78, passed 4-12-1984)

#### **§ 151.09 INSPECTION AT SUBDIVIDER'S EXPENSE.**

All public improvement proposed to be made under the provisions of this chapter shall be inspected during the course of construction by the village or duly designated consultant or deputy. All fees and costs connected with the inspection and reviewing the plans and specifications for the improvements shall be paid by the subdivider. The fees and cost shall be set at the prevailing rate.

(Ord. 78, passed 4-12-1984)

**§ 151.10 OCCUPANCY PERMIT.**

No occupancy permit shall be granted by any governing official for the use of any structure within a subdivision approved for platting or replatting until the final inspection by the village or duly appointed deputy has been made. At this time, all required utility facilities shall have been installed and made ready to service the property; roadways providing access to the subject lot or lots and sidewalks along the street shall have been constructed and street signs shall have been erected or a certified check, to cover the costs of the erection of required signs, has been deposited with the Clerk/Treasurer.

(Ord. 78, passed 4-12-1984)

**§ 151.11 VARIATIONS.**

When the subdivider can show that a provision of these regulations, if strictly adhered to, would cause unnecessary hardship, and when in the opinion of the Board of Trustees, because of topographical or other conditions peculiar to the site, a departure may be made without destroying the intent of the provision, the Board of Trustees may recommend a variance or modification.

(Ord. 78, passed 4-12-1984)

**§ 151.12 BUILDING PERMIT.**

Except as herein or otherwise provided, no building permit shall be issued under the provision of the Building Code of the village or statutes of the state, and no building or structure shall be erected upon any unplatted parcel or area over which the Board of Trustees shall have jurisdiction and authority under the provisions of the statutes of the state and the ordinances enacted by the Board of Trustees of the village, except upon a proper showing by the applicant for the permit of compliance with the provisions of this chapter.

(Ord. 78, passed 4-12-1984)

**§ 151.99 PENALTY.**

(A) Any person, firm or corporation who constructs any public improvement or portion thereof in violation of the provisions of this chapter shall be, upon conviction, fined not less than \$25, nor more than \$250, for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(B) Whoever shall sell or offer for sale, lease or offer for lease, while this chapter is in effect, any lot or lots or block or blocks within the incorporated limits of the village or any additions thereto, or any re-subdivision of any lot or block therein, or within contiguous territory of not more than three miles beyond the incorporated boundary of the village, before all the requirements of this chapter have been complied with, shall be fined not less than \$25 nor more than \$250 for each lot, block or part thereof so disposed of, offered for sale or leased.

(Ord. 78, passed 4-12-1984)



## CHAPTER 152: FLOOD DAMAGE PREVENTION

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### Section

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## GENERAL PROVISIONS

### § 152.01 STATUTORY AUTHORIZATION.

The Legislature of the state has, in 1978 as annotated, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of Trustees of village, does ordain as follows.  
(Ord. 82, passed 2-12-1987)

### § 152.02 FINDINGS OF FACT.

(A) The flood hazard areas of village 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 hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.  
(Ord. 82, passed 2-12-1987)

### **§ 152.03 STATEMENT OF PURPOSE.**

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (A) Protect human life and health;
  - (B) Minimize expenditure of public money for costly flood control projects;
  - (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (D) Minimize prolonged business interruptions;
  - (E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
  - (F) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
  - (G) Ensure that potential buyers are notified that property is in a flood area.
- (Ord. 82, passed 2-12-1987)

### **§ 152.04 METHODS OF REDUCING FLOOD LOSSES.**

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

- (A) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
  - (B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - (C) Control the alternation of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
  - (D) Control filling, grading, dredging and other development which may increase flood damage; and
  - (E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
- (Ord. 82, passed 2-12-1987)

### **§ 152.05 DEFINITIONS.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

**APPEAL.** A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

**AREA OF SPECIAL FLOOD HAZARD.** The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

**BASE FLOOD.** The flood having a one percent chance of being equaled or exceeded in any given year.

**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 human-made 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.

**ELEVATED BUILDING.** A non-basement building built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structural member 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 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. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, D, **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement for flood waters. In the case of Zones V1-30, VE or V, **ELEVATED BUILDING** also includes a building otherwise meeting the definition of **ELEVATED BUILDING**, even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of 44 C.F.R. § 60.3(e)(5) of the National Flood Insurance Program regulations.

**EXISTING CONSTRUCTION.** Structures for which the "start of construction" commenced before the effective date of the FIRM or before 1-1-1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

**FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD BOUNDARY MAP (FHBM).** An official map of community on which the Federal Emergency Management Agency has delineated the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M and/or E.

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

**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.

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

**LEVEE SYSTEM.** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that, the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of 44 C.F.R. § 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. For floodplain management purposes, the term **MANUFACTURED HOME** also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term **MANUFACTURED HOME** does not include park trailers, travel trailers and other similar vehicles.

**MEAN SEA LEVEL.** The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION.** Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

**START OF CONSTRUCTION.** (For other than new construction or substantial improvements under the Coastal Barrier Resources Act, being 16 U.S.C. §§ 3501 *et seq.*), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**STRUCTURE.** A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

***SUBSTANTIAL IMPROVEMENT.*** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, ***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

***VARIANCE.*** A grant of relief to a person from the requirements 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 44 C.F.R. § 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 44 C.F.R. § 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. 82, passed 2-12-1987)

#### **§ 152.06 LANDS TO WHICH CHAPTER APPLIES.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the village.  
(Ord. 82, passed 2-12-1987)

#### **§ 152.07 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.**

The areas of special flood hazard identified by the Federal Emergency Management Agency on its flood Hazard Boundary Map (FHBM), Community No. 350074A, dated March 15, 1983, and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter.  
(Ord. 82, passed 2-12-1987)

#### **§ 152.08 DEVELOPMENT PERMIT.**

A Development Permit shall be required to ensure conformance with the provisions of this chapter.

(Ord. 82, passed 2-12-1987)

**§ 152.09 COMPLIANCE.**

No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 82, passed 2-12-1987)

**§ 152.10 ABROGATION AND GREATER RESTRICTIONS.**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 82, passed 2-12-1987)

**§ 152.11 INTERPRETATION.**

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under State statutes.

(Ord. 82, passed 2-12-1987)

**§ 152.12 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 human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will not be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 82, passed 2-12-1987)

## **ADMINISTRATION**

**§ 152.30 FLOODPLAIN ADMINISTRATOR.**

(A) The Village Building Inspector is hereby appointed the Floodplain Administrator to administer and implement the provisions of this chapter, the County Flood Plan and other

appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to floodplain management.

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

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

(2) Review permit application to determine whether proposed building site will be reasonably safe from flooding;

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

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required;

(5) 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;

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which State office of Military Affairs Civil Emergency Preparedness Division. Prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained; and

(8) When base flood elevation data has not been provided in accordance with § 152.07, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of §§ 152.45 through 152.48.

(Ord. 82, passed 2-12-1987)

### **§ 152.31 PERMIT PROCEDURES.**

(A) Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of § 152.46;

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

(5) Maintain a record of all such information in accordance with § 152.30.

(B) 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 to life and property due to flood or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of the 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, a rate of rise and sediment transport of the flood waters and the effect of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

(10) The relationship of the proposed use to the comprehensive plan for that area.

(Ord. 82, passed 2-12-1987)

### **§ 152.32 VARIANCE PROCEDURES.**

(A) The Appeal Board as established by the community shall hear and render judgement on requests for variances from the requirements of this chapter.

(B) The Appeal Board shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

(C) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(D) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(E) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.

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



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

(H) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(I) 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 showing a good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship to the applicant, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(3) Any application to 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.

(J) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria outlined herein are met, and 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. 82, passed 2-12-1987)

## **FLOOD HAZARD REDUCTION**

### **§ 152.45 GENERAL STANDARDS.**

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

(A) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation; collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

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

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

(D) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

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

(G) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.  
(Ord. 82, passed 2-12-1987)

#### **§ 152.46 SPECIFIC STANDARDS.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth herein, the following provisions are required:

(A) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basements), elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this division as proposed herein, is satisfied.

(B) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this division. A record of the certification which includes the specific elevation (in relation to mean sea level) to which the structures are flood proofed shall be maintained by the Floodplain Administrator.

(C) *Manufactured homes.*

(1) Require that all manufactured homes to be placed within Zone A, shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(2) All manufactured homes shall be in compliance herewith.  
(Ord. 82, passed 2-12-1987)

#### **§ 152.47 STANDARDS FOR SUBDIVISION PROPOSALS.**

(A) All subdivision proposals including manufactured home parks and subdivisions shall be consistent herewith.

(B) All proposals for the development of subdivisions including manufactured home parks and subdivisions shall meet development permit requirements of § 152.31; and the provisions of this subchapter.

(C) Base flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant hereto.

(D) All subdivisions proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(E) All subdivision proposals including manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. 82, passed 2-12-1987)

#### **§ 152.48 STANDARDS FOR AREAS OF SHALLOW FLOODING.**

Located within the areas of special flood hazard established in § 152.07, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(A) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

(B) All new construction and substantial improvements of non-residential structures:

(1) Have the lowest floor (including basement) elevated above the highest grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth is specified); or

(2) Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(C) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section are satisfied.

(D) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

(Ord. 82, passed 2-12-1987)

## **CHAPTER 153: ECONOMIC DEVELOPMENT**

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### Section

153.01	Short title
153.02	Authority
153.03	Purpose
153.04	Definitions
153.05	Economic Development Plan

153.06	Application requirements
153.07	Applicable review criteria
153.08	Public safeguards
153.09	Project participation agreement
153.10	Project monies
153.11	Termination
153.12	Joint regional projects

#### **§ 153.01 SHORT TITLE.**

This chapter may be cited as the "Economic Development Plan Ordinance".  
(Ord. 110, passed 2-14-2008)

#### **§ 153.02 AUTHORITY.**

This chapter is enacted pursuant to the statutory authority conferred upon municipalities to allow public support of economic development (NMSA §§ 5-10-1 through 5-10-13). This chapter is adopted as part of the village's economic development plan.  
(Ord. 110, passed 2-14-2008)

#### **§ 153.03 PURPOSE.**

(A) 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 governments are allowed to provide direct or indirect assistance to qualifying business 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.

(C) Municipalities may impose municipal infrastructure gross receipts tax and dedicate the revenue for economic development projects. A total of 0.25% tax (in four increments of 0.0625%) may be imposed.  
(Ord. 110, passed 2-14-2008)

#### **§ 153.04 DEFINITIONS.**

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

***ECONOMIC DEVELOPMENT PROJECT.*** The provision of direct or indirect land, buildings or other infrastructure; public works improvements essential to the location assistance to a qualifying business and include the purchase, lease, grant or construction, reconstruction, improvement or other acquisition or conveyance of 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 Williamsburg Board of Trustees.

***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 section.

***QUALIFYING ENTITY.*** An existing or proposed corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or combination of two or more of the following:

- (1) An industry for manufacturing, processing or assembling of any agricultural or manufactured products;
- (2) A commercial enterprise for storing, warehousing, distributing, or selling products of agriculture, mining or industry, but other than provided in division (4) below, 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;
- (3) 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 division (4) below, not including business primarily engaged in the sale of goods or commodities at retail; and
- (4) A telecommunications sales enterprise that makes the majority of its sales to persons outside of the state.

(Ord. 110, passed 2-14-2008)

## **§ 153.05 ECONOMIC DEVELOPMENT PLAN.**

(A) The Village Mayor after approval of the governing body may assist Economic Development Projects in any legally permissible manner including, but not limited to, provisions 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. 110, passed 2-14-2008)

**§ 153.06 APPLICATION REQUIREMENTS.**

(A) Any qualifying entity meeting the definition set forth herein 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.

(B) Applications from qualifying entities shall be submitted to the village 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 by-laws;

(c) List of board of directors and executive director, with addresses; and resumes of all directors and officers; 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 years;

(b) Federal tax number, state taxation and revenue number and village business license; and

(c) Projected income statement for at least three years.

(3) Evidence of organizational capacity:

(a) Brief history of the entity;

(b) Organizational chart of the entity; and

(c) Business plans for the entity and proposed project (shall include pro-forma cash flow analysis).

(4) The project participation agreement and any other pertinent information will be forwarded to the governing body for final consideration at a public meeting.

(Ord. 110, passed 2-14-2008)

**§ 153.07 APPLICABLE 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;

(3) Private companies seeking to build, expand or relocate facilities;

(4) Private companies which provide facilities or services which enhance the ability of village businesses to operate;

(5) Organizations, which assist business start-ups 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 rehearsal or performance facilities);
  - (c) Public markets for farmers, gardeners, crafts and the like; 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 contract 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 Board of Trustees 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 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 State 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 Hatch area;
- (4) Total payroll expected at start-up 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 village 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 as 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. 110, passed 2-14-2008)

#### **§ 153.08 PUBLIC SAFEGUARDS.**

(A) All economic development projects receiving assistance from the village shall be subject to an annual performance review conducted by the village. 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 security given shall depend upon the nature of 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) Pro-rated 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 city 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 the 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 years from the date the ordinance is adopted and the project participation agreement is passed by the governing body.

(Ord. 110, passed 2-14-2008)

#### **§ 153.09 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. 110, passed 2-14-2008)

#### **§ 153.10 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. 110, passed 2-14-2008)

#### **§ 153.11 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. 110, passed 2-14-2008)

#### **§ 153.12 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. 110, passed 2-14-2008)

## CHAPTER 154: ZONING

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### Section

#### *General Provisions*

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#### *Specific Districts*

154.20	R-1 Residential Zone
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## GENERAL PROVISIONS

### § 154.01 TITLE.

- (A) This chapter shall be known as the "Zoning Ordinance" of the village.
- (B) It is an ordinance effecting and discharging the power and duties conferred by law upon the municipality; providing for the safety, preserving the health, promoting the prosperity, improving the morals, order, comfort and convenience of the Municipality and its inhabitants, and providing for the rules and regulations for zoning the village, determining the purpose for definitions and boundaries, setting the zoning classification and uses, determining area and parking requirements, setting up special uses and non-conforming uses, and regulations for special uses, fence modification and exceptions, rights of appeal, procedure, amendments and penalties and sign regulations.

(Ord. 77, passed 3-8-1984)

## **§ 154.02 PURPOSE.**

(A) This code is adopted pursuant to the authority of NMSA §§ 14-20-1 through 14-20-24, as amended, along with the zoning plan, zoning regulations and zoning map is to promote health, safety, morals and general welfare of the community. These regulations, plans and maps are designed to:

- (1) Lessen congestion in the streets and public ways;
- (2) Promote public health, safety, morals and the general welfare;
- (3) Regulate or restrict within the village, the height, number of stories and size of buildings and other structures, percentage of lot that may be occupied, size of yards, courts and other open space, density of population, and location and use of buildings, structures and land for trade, industry, residence, floodplain or other purposes;
- (4) To divide the village into districts or zones of such number, shape, area and form, as is necessary to carry out the purpose of the code;
- (5) To regulate or restrict the erection, construction, alteration, repair, or use of building, structures, or land in each district or zone;
- (6) To provide for the administering of this code;
- (7) To provide for amendments, supplement, or changes hereto;
- (8) Lessen congestion in the streets and public ways;
- (9) To secure safety from fire, panic, flood and other dangers;
- (10) Promote health and the general welfare;
- (11) Provide adequate light and air;
- (12) Prevent the over-crowding of land;
- (13) Avoid undue concentration of population;
- (14) Facilitate adequate provision for transportation, water, sewage, schools, parks and other public requirements; and
- (15) Control and abate the unsightly use of buildings or land.

(B) These regulations and restrictions have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, to conserving the value of buildings and land, to encouraging the most appropriate use of land, and to be in keeping with the general trend and character of population and building development.

(C) If any section, subsection, sentence, clause, phrase or portion of this Code is for any reason held to be invalid or unconstitutional by the decision of any Court of Competent Jurisdiction, such decision shall not affect the validity of the remaining portion of this Code. The Council of this village hereby declares that it would have adopted this code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases, or portions be declared invalid or unconstitutional.  
(Ord. 77, passed 3-8-1984)

## **§ 154.03 ESTABLISHMENT OF ZONES.**

(A) *Districts and boundaries thereof; division into districts.* In order to carry out the provisions of this Zoning Code, the village is hereby divided into four districts which shall be known as:

- (1) R-1 Single-Family Dwelling District;
- (2) R-2 Multiple Dwelling District;
- (3) R-3 Multiple Dwelling and trade services;
- (4) Commercial District; and
- (5) P.U.D. Planned Unit Development.

(B) *District map and boundaries right of inspection.* The districts and boundaries of districts are shown on a map, designated as the "District Zoning Map". All notations and references shown on the "District zoning Map", are as much a part of this Zoning Code as though specifically described herein. Both the ordinance and the "District Zoning Map" shall be filed in the office of the Village Clerk/Treasurer, and shall be available for examination by any citizen during normal office hours.

(1) The district boundaries are either streets, highway or alleys unless otherwise shown and where the designation of the "District Zoning Map" indicates that the various districts are approximately bounded by a street, highway or alley line, the street, highway or alley line shall be construed to be the district boundary line.

(a) *Alley.* A public or private thoroughfare, with a width of not less than 20 feet, that is publicly reserved as a secondary means of access to adjoining tracts or property.

(b) *Street.* A street is the public right of way which has been dedicated or secured for the public use and affords the principal means of access to the adjoining lot or plots, but does not include an alley.

(c) *Street line.* A dividing line between a lot and contiguous street.

(2) Where the district boundaries are not otherwise indicated, and where the property has been, or may hereafter be, divided into blocks and lots, the district boundaries shall be construed to be lot lines and where the designations on the "District Zoning Map" are approximately bounded by lot line, the lot lines shall be construed to be the boundary of the district.

(3) In subdivided property, the district boundary lines shown on the "District Zoning Map" shall be determined by the use of the scale shown on the map.

(4) In the event any street, highway, alley, drainageway, irrigation channel or other public way forming the boundary of a district is vacated, the new district boundary shall be the former centerline of said vacated street, highway, alley, drainageway, irrigation channel or other public way.

(5) Land uses such as parks, playgrounds, schools, cemeteries, bodies of water, streets or rights-of-way shall be subject to the zoning regulations of the district in which they are located. In case of doubt, the zoning regulations of the most restricted adjoining zone shall govern.

(Ord. 77, passed 3-8-1984)

#### **§ 154.04 ZONING SYSTEM GENERALLY.**

The zoning system of the village is based upon interacting factors of building and land uses which are organized as follows.

(A) *Principal uses.*

(1) Each zone established by the Zoning Ordinance is characterized by a major land use. This use is the "permitted use" in that zone and is allowed without any action by the Board of Trustees.

(2) A use that is considered compatible to the permitted use is a "conditional use". Both uses may exist in the same zone but permits are required for conditional uses.

(3) There are uses that are special due to unusual dimensions, in frequent occurrences, or effect upon surrounding properties. When these uses are considered compatible to the other uses in the zone, a permit for "special use" may be obtained.

(B) *Ancillary uses.* A use which is subordinate to the major use in a zone is an "ancillary use". A use may be allowed if the ancillary use is not objectionable to use regulations in the zone. Details are presented herein.

(C) *Standards.* Standard regulations control uses in all zones.

(1) Regulations to control land uses by dimensions and areas in each zone are classified as "basic standards". The table is found herein.

(2) Regulations requiring industry to perform within prescribed limits are detailed herein.

(D) *Specifications.*

(1) The general specifications are criteria for the village to control complex land uses. Among these uses are drive-in theaters, mobile home parks and the like.

(2) The specific specifications relate to more specific uses such as signs, off-street parking and the like, uses in all zones.

(E) *Compliance with the ordinance.* Except as hereinafter specifically provided:

(1) No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used, except for a purpose permitted in the district in which the building or land is located.

(2) Prior to any construction of a value or cost of \$500 or more a permit shall be obtained from the State Building Inspector. All construction shall be in accordance to the State Uniform Building Code, Current Edition.  
(Ord. 77, passed 3-8-1984)

## **§ 154.05 ADMINISTRATION.**

(A) *Administrative Official.*

(1) Except as otherwise provided in this chapter, the Building Inspector shall:

- (a) Administer and enforce this chapter;
- (b) Receive applications;
- (c) Inspect premises for ordinance compliance; and
- (d) Issue permits and certificates. No permit or certificates of occupancy shall be issued by him except where compliance with the provisions of this chapter has been met.

(2) *Building permit required.*

(a) 1. No building, structure, including mobile homes outside mobile home parks, shall be erected, added to or structurally altered without a permit issued by the Building Inspector.

2. A structure is anything constructed or erected which requires spaces on the lot or plot. The structure must conform to the Uniform Building Code as adopted by the village and on file in the Village Clerk/Treasurer's Office.

(b) All applications for such permits shall be in accordance with the requirements of this chapter and no building permit shall be issued in violation of any of the provisions of this chapter.

(3) *Certificates of occupancy.*

(a) No land shall be occupied or used and no building or mobile home hereafter erected, altered or extended shall be used without a certificate of occupancy.

(b) No certificate of occupancy will be issued by the Building Inspector to persons who do not comply with the provisions of this chapter, other ordinances and laws, electrical and plumbing-gas codes.

(4) *Non-conforming uses.*

(a) At the effective date of this chapter land or building uses existing that are not allowable under the terms of this chapter may be continued and considered lawful unless an objection to the use is filed in the office of the Village Clerk/Treasurer within a period of one year after the effective date of this chapter.

1. An application of objectionable use may be filed by a landowner or the Governing Body of the village.

2. An objectionable use application shall be heard by the Village Board of Trustees when the application is recommended by the Building Inspector or Board of Trustees.

3. If the building or land uses is found objectionable by the Village Board of Trustees the owner is to be given three years to conform to the provisions of this chapter.

4. The application fee shall be the same as that for a zoning map charge.

(b) No non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of this chapter.

(c) No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of this chapter.

(d) If any non-conforming use ceases for any reason for a period more than 90 days, any subsequent similar use of the land shall conform to the provisions specified by this chapter;

(e) No additional structure not conforming to the requirements of this chapter shall be erected in connection with non-conforming use of land.

(5) *Enforcement.* The Building Inspector has the authority and duty to enforce the Zoning Ordinance.

(a) An application for a permit must be approved by the Building Inspector.

(b) A permit issued in conflict with this chapter is void.

(c) The Building Inspector or designated representative may inspect all buildings and premises in observance of this chapter. Twenty-four hour notice of intent must be served upon occupant unless consent is given.

(d) In case of building construction of any manner or a building or land use in violation of the ordinance, the Building Inspector shall:

1. Institute an appropriate action to prevent the unlawful act;
2. Restrain, correct or abate the violation to prevent the occupation of the building or land;
3. Prevent any illegal act, conduct, business or use about the premises; and
4. Notify the Board of Trustees of such violation.

(e) Any person or person found violating any provision of this chapter shall be punishable by a fine:

1. Not less than \$10 nor more than \$500 or by imprisonment in jail for a period not to exceed 90 days, or by both fine and imprisonment.
2. Each and every day that such violation continues shall be considered a separate offense.

(B) *Administrative review and interpretation.*

(1) The Mayor and Board of Trustees must review an administrative action of the Building Inspector when it is alleged that there is an error in the order, requirement, determination or refusal made by the Building Inspector and reverse, affirm or modify the administrative action.

(2) The Board must interpret this chapter when the Building Inspector is in doubt as to the exact meaning of the text.

(3) The Board must interpret the Zoning Map in accordance with the standards set forth in the Zoning Ordinance when the Building Inspector is uncertain as to the exact meaning of the text.

(C) *Powers and duties.*

(1) The Mayor and Board of Trustees shall hear and decide any application made under this chapter and it shall make a written recommendation as required by this chapter.

(2) The Mayor shall not amend the Zoning Map or text of this chapter until he or she receives a recommendation from the Board of Trustees.

(D) *Amendments and permits.*

(1) *Amendments.*

(a) Amendments to the Zoning Ordinance, zoning map or to the text of this chapter must be:

1. Initiated by a private land owner, Building Inspector, Mayor or Board of Trustees; and

2. Submitted on a prescribed form to the Village Clerk/Treasurer. The application for amendment will consist of:

- a. An accurate plat plan;
- b. A site plan;
- c. Building development plan;
- d. Sketch;
- e. Program of development; and

- f. Related material and information are required by the village.
3. Reviewed by the Building Inspector for proper format prior to the hearing.
- (b) An application fee for a zoning map change or objectional use shall be charged as follows:
1. Less than one acre: \$50; and
  2. One acre but less than five acres: \$60 for the first acre plus \$5 for each additional acre.
- (c) An application fee for an ordinance amendment shall be charged \$100.
- (d) When an application is withdrawn after it has been advertised for special hearing by the village, the application fee less the cost of the advertisement shall be refunded. When an application is withdrawn before the advertisement, the application fee shall be refunded in full.
- (e) Application for zoning of an area to be annexed to the village is an application for map changes and must be filed and processed concurrently with the annexation action.
- (2) *Permits.*
- (a) Conditional uses may be approved by the Board of Trustees under the following provisions:
1. The use is desirable or essential to the public welfare, safety, health, morals or convenience of the residents in that zone;
  2. The use is compatible to the existing uses in the zone;
  3. The use is important to the development of an undeveloped area; and
  4. Such conditional uses are limited to those enumerated in this chapter.
- (b) Variance from the strict application of dimension, distance, parking or setback requirements of this chapter may be recommended for approval under the following conditions.
1. A lot is exceptionally irregular, narrow shallow or steep or has other exceptional physical conditions when strict application of the requirements of this chapter would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of his or her land or building, but in no other case;
  2. Practical difficulty or unnecessary hardship cannot be found when financial gain, loss or monetary savings is the basis for claim of hardship.
- (c) Special uses may be recommended by the Board of Trustees if:
1. Use meets the conditions and limitations imposed by the standards and specifications of this chapter.
  2. The special uses are limited to those enumerated in this chapter and in the particular zone.
- (d) A filing fee of \$25 must accompany each application. When an application is withdrawn, the application fee shall be refunded.



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(e) Fees for building permits and certificates of occupancy: For each permit to construct, alter, move or change the use of any building, or land within any portion of the incorporated area, a fee shall be charged according to the following schedules:

1. Buildings:

<i>Type of Construction</i>	<i>Amount</i>
Finished interior for residential, commercial or semi-public use; off-site manufactured construction excluding single-wide mobile homes.	\$ .20 per square foot of interior space for the first 2,000 square feet. \$.10 per square feet thereafter (\$20 min)
Unfinished or open covered area; for example, garages, barns or storage structures, and so forth, and swimming pools, patios and so forth, single-wide mobile homes.	\$.05 per square feet of constructed area (\$5 min)

2. Uses: The fee for a certificate of occupancy for a new residential or non-residential use, or a change of non-residential use of buildings or land, be included in the application fees.

3. Fees for signs, walls, pools and structures other than buildings shall be as contained in § 303 of the Uniform Building Code on file in the Village Clerk/Treasurer's Office.

4. a. Appeal of any denial must be submitted within 15 days with the Village Clerk/Treasurer in accordance with the appeals procedure of this chapter.

b. A filing fee of \$25 must accompany each application. When an application is withdrawn the application fee shall not be refunded.

(3) *Hearings; Planning and Zoning (Mayor and Board of Trustees).*

(a) Regular meetings: Public notice of place, date and time of the meetings is required.

(b) Special meetings:

1. Public notice of place, time and date of hearing required;
2. Twenty-four hour advance notification shall be given.

(c) Minutes of the proceedings:

1. The minutes are public record and must be recorded.
2. The vote of each member on each question must be recorded.

(d) Each application must be considered.

(e) Special hearings: Required hearings for an amendment to this chapter, change in the zoning map, special use application or an objectionable use application shall be given public notification.

1. Notice of hearing and location must be given in one publication in a newspaper of general circulation in the village area.

2. Notice shall be 15 days before the date for the hearing;

3. Notice of the proposed hearing, date, time and location shall be posted on the subject lot or lots 15 days before the hearing.

4. Written notice by certified mail return-receipt requested shall be made to:
- a. All owners of all property within the area of the proposed change.
  - b. All owners of property within 100 feet of the exterior boundaries of the area, excluding public right of ways.
  - c. Not less than five days before the date of the hearing.
  - d. Last known name and address of the owners shown in records of the County Assessor will be used.
5. An application may be recommended if a majority of the Board of Trustees concurs that:
- a. Intended use is not substantially or permanently injurious to the neighborhood;
  - b. It is appropriate to the use of adjoining property;
  - c. It is not detrimental to the public welfare, safety, health, morals or convenience; and
  - d. The use will be compatible with the purpose of this chapter;
  - e. Decisions must be made in written recommendations to the Board of Trustees.

(5) *Board of Trustees.* Legal advertisement is required 15 days before the meeting by at least one publication in the daily newspaper of general circulation in the village when the Board of Trustees is to consider a recommendation from the Mayor or the Building Inspector on application.

(E) *Appeals.*

(1) Appeal of a denial or of any action or decisions by the Building inspector is to the mayor and Board of Trustees. Appeal of decision by the Board of trustees is to the District Court.

(2) An appeal shall be made in application and shall be filed in duplicate in the office of the Village Clerk/Treasurer and shall:

- (a) State specifically the claim and error or abuse of discretion; and
- (b) Show the decision is not supported by evidence in the matter.

(3) Any appeal not filed within 15 days after the rendition in writing of the decision appealed from shall be dismissed, holidays and weekends exempted.

(4) The Village Board of Trustees may decline to accept an appeal if all adopted village plans, policies and ordinances have not been properly followed or are adequate.

(5) (a) The Village Board of Trustees will accept the appeal if there is substantial question that all such village plans, policies and ordinances have not been properly followed or are adequate.

(b) An appeal if accepted shall be decided within 60 days of its filing.

(6) Public notice of an appeal of a denial by the Mayor and Board of Trustees must be given by legal advertisement in the manner prescribed for a hearing by the Board of Trustees.

(7) No permit, certificate or any other application will be issued until an appeal is decided or the time for filing the appeal has expired.

(8) An appeal results in a stay of all proceedings in the action unless the Board of Trustees by a vote of three-fourths of all its members certifies that, by reason of facts, a stay will cause imminent peril to life or property.

(9) An appeal, if accepted, shall be decided within 60 days of its filing. Decision shall be following a public hearing.

(10) If a written protest is signed by the owners of 20% or more of the area of the lots or lands included in the proposed change, or of those within 100 feet of the external boundaries of the area proposed for change, disregarding public ways, the change to the zoning map or the issuance of permits for a special or conditional use shall not become effective unless the proposed change is approved by the concurring vote of at least three-fourths of all members of the Village Board of Trustees.

(Ord. 77, passed 3-8-1984)

#### **§ 154.06 INTERPRETATION; CONFLICT.**

The regulations of this chapter are held to be the minimum standards to carry out the purpose of this chapter. This chapter is not intended to interfere with, abrogate or annul any easement, covenant or other agreement between parties, or other valid ordinances. When this chapter imposes a greater restriction upon the use of land or building, or upon the height of building, or requires larger open space than is imposed by other rules, regulations, easements, covenants, agreements or ordinances, the provisions of this chapter control.

(Ord. 77, passed 3-8-1984)

### **SPECIFIC DISTRICTS**

#### **§ 154.20 R-1 RESIDENTIAL ZONE.**

This zone permits a low density population in which the principle land use is regulated to the single-family house.

(A) Ancillary building and use customarily incidental to the uses listed, including, but not limited to private garages, use of lot or portion thereof for vegetable or flower garden, keeping household pets (not on a commercial basis), swimming pools, home barbecue grills, accessory storage, all of which must comply with regulations of this chapter.

(B) Principal uses: Details are set forth herein under the following headings:

- (1) 11. Household units;
- (2) 12. Group quarters;
- (3) 47. Communications;
- (4) 48. Professional services;
- (5) 68. Educational services;
- (6) 69. Miscellaneous services;
- (7) 71. Cultural activities;
- (8) 74. Recreational activities; and
- (9) 76. Parks.

(Ord. 77, passed 3-8-1984)

**§ 154.21 R-2 RESIDENTIAL ZONE.**

This zone permits two-family houses and mobile homes in addition to one-family houses. Limited trade and services for the residents are allowed under conditional use permits.

(A) Ancillary building and use customarily incidental to the uses listed, including, but not limited to, home occupation, private garages use of lot or portion thereof for vegetable or flower garden, keeping household pets (not on a commercial basis), swimming pools, home barbeque grills, accessory storage, all of which must comply with regulations of this zoning ordinance.

(B) Principal uses: Details are set forth in § 154.44 under the following headings:

- (1) 11. Household units;
- (2) 12. Group quarters;
- (3) 47. Communications;
- (4) 48. Utilities;
- (5) 54. Retail trade – food;
- (6) 59. Other retail trade;
- (7) 62. Personal services;
- (8) 65. Professional services;
- (9) 67. Government services;
- (10) 68. Educational services;
- (11) 69. Miscellaneous services;
- (12) 71. Cultural activities and nature exhibits;
- (13) 74. Recreational activities; and
- (14) 76. Parks.

(Ord. 77, passed 3-8-1984)

**§ 154.22 R-3 RESIDENTIAL ZONE.**

This zone permits one-family, mobile home, two-family and multiple-family houses. In addition, trade services and other uses characteristic of a neighborhood are permitted. The purpose of this zone is to allow grouping of living shopping and leisure facilities for the convenience of the residents.

(A) Ancillary building and use customarily incidental to the uses listed, including, but not limited to, home occupation, private garages, use of lot or portion thereof for vegetable or flower garden, keeping household pets (not on a commercial basis), swimming pools, home barbecue grills, accessory storage, all of which must comply with regulations of this zoning ordinance.

(B) Temporary storage of construction materials and equipment shall terminate upon completion of construction or within one year from date of permit, whichever is sooner. Construction yards, buildings and materials shall be maintained in a neat and orderly fashion and open yards shall be enclosed by a fence five feet in height. However, there shall be no fence or

wall more than three feet in total height above street-curb located within 30 feet of a street intersection.

(C) Principal Uses: Details are set forth in § 154.44 under the following headings:

- (1) 11. Household units;
- (2) 12. Group quarters;
- (3) 13. Residential hotels;
- (4) 46. Automobile parking;
- (5) 47. Communications;
- (6) 48. Utilities;
- (7) 49. Other transportation communication and utilities;
- (8) 54. Retail trade – food;
- (9) 58. Retail trade – eating and drinking;
- (10) 59. Other retail trades;
- (11) 62. Personal services;
- (12) 63. Business service;
- (13) 65. Professional services;
- (14) 67. Governmental services;
- (15) 68. Educational services;
- (16) 69. Miscellaneous services;
- (17) 71. Cultural activities and nature exhibitions;
- (18) 72. Public assembly;
- (19) 74. Recreational activities; and
- (20) 76. Parks.

(Ord. 77, passed 3-8-1984)

### **§ 154.23 C-1 COMMERCIAL ZONE.**

(A) Trade and services zone. This zone permits neighborhood and community shopping center, wholesale and retail trades, financial, personal, business, professional grouping of services, service centers and cultural uses to transient trade as well as satisfying the day to day and long range needs of local and regional demands.

(B) Storage of wrecked or dismantled motor vehicles shall be permitted only as an incidental accessory use to a repair establishment or body shop; such storage shall be within an enclosed building or within a sight-obscuring fence at least six feet in height.

(C) Principal uses: Details are set forth hereunder under the following headings:

- (1) 11. Household units;
- (2) 12. Group quarters;
- (3) 13. Residential hotels;
- (4) 14. Mobile home parks or courts;
- (5) 15. Transient lodgings;
- (6) 21. Food and kindred products;
- (7) 23. Apparel and other finished products made from fabrics, leather and similar materials-mfg;
- (8) 24. Lumber and wood products (except furniture)-mfg;
- (9) 25. Furniture and fixtures-mfg;

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- (10) 26. Paper and allied products-mfg;
  - (11) 27. Painting, publishing and allied industries;
  - (12) 28. Chemical and allied products-mfg;
  - (13) 29. Petroleum refining and related industries;
  - (14) 31. Rubber and miscellaneous plastic products-mfg;
  - (15) 32. Stone, clay and glass products mfg;
  - (16) 34. Fabricated metal products-mfg;
  - (17) 35. Professional, scientific and controlling instrument photographic and optical goods, watch and clocks-mfg;
  - (18) 39. Misc. manufacturing;
  - (19) 42. Motor vehicle transportation;
  - (20) 46. Automobile parking;
  - (21) 47. Communication;
  - (22) 48. Utilities;
  - (23) 49. Other transportation comm. and utilities;
  - (24) 51. Wholesale trade;
  - (25) 52. Retail trade-building material and farm equipment;
  - (26) 53. Retail trade-general merch;
  - (27) 54. Retail trade-food;
  - (28) 55. Retail trade-automotive marine, aircraft;
  - (29) 57. Retail trade-furniture home furnishings;
  - (30) 58. Retail trade-eating and drinking;
  - (31) 59. Other retail trade;
  - (32) 61. Finance, insurance and real estate service;
  - (33) 62. Personal service;
  - (34) 63. Business service;
  - (35) 64. Repair service;
  - (36) 65. Professional service;
  - (37) 66. Contract construction services;
  - (38) 67. Governmental services;
  - (39) 68. Educational services;
  - (40) 69. Miscellaneous services;
  - (41) 71. Cultural activities;
  - (42) 72. Public assembly;
  - (43) 74. Recreational activities;
  - (44) 75. Resorts and group camps;
  - (45) 76. Parks;
  - (46) 82. Agricultural related activities; and
  - (47) 85. Mining activities and related activities.
- (Ord. 77, passed 3-8-1984)

**§ 154.24 PLANNED UNIT DEVELOPMENT.**

- (A) In this area, R-1, R-2, R-3 or C-1 zones can be planned and developed.

(B) The proposed development must follow all applicable procedures, standards and requirements necessary in R-1, R-2, R-3 and C-1 zones.

(C) The developers of such land must submit to the Mayor and Village Board of Trustees a preliminary map, prepared by a licensed surveyor.

(1) The Mayor and the Board of Trustees shall review it for compliance with this chapter. In the course of the review, the Board of Trustees may suggest changes in the plan as a condition of approval.

(2) The plan must show boundaries or property to be developed.

(3) Show existing topography with contour intervals of not less than five feet and preferably two feet.

(4) Show in detail, size and location of lots, streets, easements and other pertinent information.

(5) Show drainage plans with sufficient control grades to indicate the intent of the developer. Drainage plans must not affect adversely adjacent properties.

(6) Allow for properties suitably located that can be later purchased for public or semi-public use, such as parks, fire house, community center, utility sub-stations and the like.

(7) The plan must not adversely affect adjacent property values.

(8) The plan is consistent with the intent and purpose of this Zoning Code to promote public health, safety, moral and general welfare.

(9) After approval of the preliminary plans with such changes, conditions, and safeguards as may have been included, the official zoning district map shall be amended to include the new districts or zones.

(10) The applicant shall then prepare a final development plan, one copy of which is to be filed with the Village Clerk/Treasurer.

(Ord. 77, passed 3-8-1984)

## REGULATIONS AND STANDARDS

### § 154.40 SPECIAL USES.

(A) The Mayor and Trustees, by an affirmative two-thirds vote, may, by resolution, grant a special use permit for special uses in districts from which the uses are otherwise prohibited or not specifically mentioned or defined by this chapter.

(B) Conditions and limitations upon a special use permit are imposed by the Mayor and Trustees to:

(1) Assure compatibility of property uses within the general area and zones in which the use is located;

(2) Assure that use regulations and specifications that are applicable to the special use are observed;

(3) Preserve the integrity and character of the zone and the utility and value of the property; and

(4) Assure the use will not be or become detrimental to the purpose of the zoning ordinance.

(C) Special use permits will not be required of those persons whose land or building uses conform with the standards and specifications in the zone in which the use is allowed at the effective date of this chapter.

(D) Development plans, when requested by the Mayor and Trustees, shall be prepared by those persons whose land or building uses are identified as special uses by this chapter in such cases where the status of the development plan is uncertain or no development plan is filed with the Building Inspector and the development has not been completed. Specifications are contained in § 154.43.

(E) Special uses that do not conform to this chapter are subject to the non-conforming use provisions of § 154.05.

(F) The Mayor and Trustees must review the application for special use and progress of development three years from the date of approval of the application and each year thereafter until completion of the plan, and if needed make a recommendation to the Village Trustees.

(G) Designated special uses are identified in § 154.44. Specifications for the following special uses are continued in § 154.43:

- (1) Drive-in theater;
- (2) Mobile home;
- (3) Shopping center;
- (4) Group housing development;
- (5) Nursery;
- (6) Flood channel use;
- (7) Industrial park;
- (8) Parking lots;
- (9) Land rehabilitation;
- (10) Mobil home park; and
- (11) Security building.

(H) Details for application for a special use permit are set forth in § 154.05.  
(Ord. 77, passed 3-8-1984)

#### **§ 154.41 ANCILLARY USES.**

(A) Any ancillary use is subordinate to the principal use of a building or land and is located on the same or contiguous lots with such principal building or use.

(B) All ancillary uses require approval of the Building Inspector.

(C) (1) Allowable uses.

(2) Uses and structures are allowed which are customarily used by single-family households and are considered incidental.

(a) Private garages, storage, recreation, hobby, green house, non-commercial antennas for radio, television receiving or sending or for keeping or housing domestic animals.

(b) Open and uncovered swimming pools.

1. Pools shall be located in rear fenced yards, only.

2. The pool shall be located ten feet or more from the rear or side lot property lines.

(c) Stands for sale of fruit, vegetables or nursery stock.



1. The use is limited to a period of 90 days.
2. A permit may be renewed for an additional 90 days.
- (d) Security building for a watchman. Security buildings shall be limited to the same lot or parcel of land of a manufacturing use.
- (e) Patron structures. Uses and structures used by or for patron conveniences may be located on the same lot as a manufacturing, trade or services building.
- (f) Restroom facilities, telephone booth, and attendant's shelters.
- (g) Real estate office.
  1. The office must be located within a specific development and cannot be used as a household.
  2. The use is limited to a period of one year.
- (h) Fences. The following fence modifications and exceptions to the zone requirements appearing elsewhere in this Zoning Code.
  1. No planting more than three feet high and no fence more than 30% solid or more than three feet high may be located within 30 feet of a street intersection. Fence permit required.
  2. Except as provided in "a" above, fences less than six feet high as measured from the highest directly adjacent ground surface, may be erected on those parts of a lot that are as far back or farther back from a street than the main building.
    - a. Barbed wire fence security fences. Barbed wire is not permitted except when located at least six feet above the highest adjacent ground surface.
    - b. Electric fences. Only electric fences similar and comparable to the "Fi-Shock, Inc." for pets and other small animals. Output voltage - 800 volts, plug into 110-120 volt outlet. Serial #440929, Model #SS-725.
- (i) Storage structure or yard.
  1. Equipment and materials incidental to the specific construction project may be stored on site.
  2. All equipment and material must be removed at the end of the project or following a dormant period of six months.
  3. The permit shall be limited to a period of one year. The time may be extended with Board approval.
- (j) Trailer or boat storage.
  1. Storage is limited to rear lots.
  2. The trailer or boat shall not be used as accessory living quarters.
  3. No utility connection except temporary electrical service is allowed.
- (k) Trailer as a household.
  1. The period of household use shall be limited to six months during which a house is being constructed.
  2. The use shall be limited to a lot upon which the house is being constructed.
  3. The trailer shall be at least five feet from any lot line and eight feet from the house under construction.
- (2) Home Occupation: Trade and services and manufacturing uses may be conducted provided:

(a) The activity is clearly incidental and secondary to use of the premises for a house.

(b) Only members of the residing family are employed.

(c) No stock in trade is displayed or sold on the premises.

(d) All activities are conducted entirely within a dwelling.

(e) No more than 25% of the floor area is devoted to the home occupation.

(f) There is no external evidence of the activity, such as commercial vehicles, outside storage, noise, dust, odors, noxious fumes, or other nuisances emitted from the premises.

(3) (a) Lot requirements, area: Buildings shall not occupy more than 30% of the area of a required rear yard.

(4) Locations of ancillary buildings.

(a) Any ancillary building shall be at least ten feet from a household unit unless connected by a wall common to its principal building.

(b) Ancillary buildings shall not extend across the lot.

(c) Any ancillary building located in the front or side yards must conform to basic standards of household units.

(d) Any ancillary building located in a rear lot shall not be nearer than five feet from either rear or side lot lines.

(5) Residential Zones R-1; R-2 and R-3.

(a) The minimum depth of rear yard set back is seven feet; except that:

(b) One storage building only may be constructed on rear property line of each lot when the property line abuts an alley. Storage building must be constructed of fire resistant materials and may not exceed 80 square feet in size.

(Ord. 77, passed 3-8-1984)

## § 154.42 STANDARDS GENERALLY.

### (A) *Basic standards.*

<b><i>Zone</i></b>	<b><i>Stories</i></b>	<b><i>Maximum Height of Building In Feet</i></b>	<b><i>Minimum Depth of Front Yard In Feet</i></b>	<b><i>Minimum Width of Side Yard In Feet</i></b>	<b><i>Minimum Depth of Rear Yard In Feet</i></b>
R-1 Residential	2	26	25	7	7
R-2 Residential	2	26	25	7	7
R-3 Residential	2	26	25	7	7
C-1 Commercial	2	30	None	None	None

(1) Corner Lots in R-1, R-2 and R-3: 25 feet set back from both streets.

	<b><i>Density Units Per</i></b>	<b><i>Minimum House Acre</i></b>	<b><i>Minimum Lot Area</i></b>	<b><i>Minimum Lot Width</i></b>	<b><i>Minimum Lot Area In</i></b>
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	<i>Acre</i>	Square Feet	Per Family In Square Feet	In Feet	Square Feet
R-1 Residential Single-family house	6	1,000	7,500	60	7,500
R-2 Residential Single-family home	6	850	4,500	50	4,500
Two-family home	8	600	4,000	50	8,000
Mobile home	6	600	5,000	50	5,000
R-3 Residential Single-family home	6	850	4,500	50	4,500
Two-family home	8	600	4,000	60	8,000
Three-family home	12	600	5,000	50	5,000
Mobile home	7	600	5,000	50	5,000
apartments	20	540	2,000	60	8,000

(2) Height standards in this chapter do not apply to:

- (a) Antennas;
- (b) Chimneys;
- (c) Church spires and towers;
- (d) Cooling towers;
- (e) Elevator bulk heads;
- (f) Fire towers;
- (g) Flag poles;
- (h) Monuments;
- (i) Ornamental towers and spires;
- (j) Smoke stacks; and
- (k) Tanks.

(B) *Basic standards and general zoning ordinance definitions.* For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section. Words used in the present tense shall include the future; words in the singular number include the plural number, and words in the plural number include the singular number; the word "lot" includes the word "plat"; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory. Any words not herein defined shall be construed as defined in the state and village building codes.

**ACCESSORY BUILDING.** See **ANCILLARY USES.**

**ACCESSORY USE.** See **ANCILLARY USES.**

**ACRE.** An acre of land not including area for streets and alleys to service the acre of land.

**APARTMENT.** See **DWELLING UNIT.**

**BILLBOARD.** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.

**BOARDING HOUSE.** A building, other than a hotel or apartment hotel where, for compensation and by prearrangement for definite periods, lodging, meals or lodging and meals are provided for three or more persons, but not exceeding 20 persons.

**BUILDING.** Any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.

**CLINIC.** An establishment where patients are not lodged over night, but are admitted for examination and treatment by a group of physicians or dentist practicing medicine together.

**CONDOMINIUM.** A system of separate ownership of individual units in a multiple-unit building.

**COURT.** An open space more than one-half surrounded by buildings.

**DENSITY.** The range in number of household units per acre which development will not exceed.

**DISTRICT.** Any section of the village within which the zoning requirements are uniform.

**DWELLING.** A building or portion thereof designed or used exclusively for residential occupancy, but not including, house trailers, mobile homes, hotels, motels, boarding and lodging houses, tourists courts or tourist homes.

**DWELLING, MULTIPLE.** A building designed for or occupied exclusively by three or more families.

**DWELLING, SINGLE-FAMILY.** A building designed for or occupied exclusively by one family.

**DWELLING, TWO-FAMILY.** A building designed for or occupied exclusively by two families.

**DWELLING UNIT.** A room or suite of rooms used as a single-family dwelling including bath and culinary accommodations.

**FAMILY.** An individual or two or more persons related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

**FILLING OR SERVICE STATION.** Any land, building, structure or premises used for the sale at retail of motor vehicle fuels, oils or accessories or for servicing or lubrication motor vehicles or installing or repairing parts and accessories, but not including the repairing or replacing of motors, bodies or fender of motor vehicles or painting motor vehicles, and excluding public garages.

**FLOOR AREA.** The square feet of floor space within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. It does not include porches, garages, or space in a basement or cellar when the basement or cellar space is used for storage or incidental uses.

**FRONTAGE.** The distance along a street line from one intersecting street to another or from one intersecting street to the end of a dead end street.

**GARAGE, PRIVATE.** A detached accessory building or portion of a main building, housing the automobiles of the occupants of the premises.

**GARAGE, PUBLIC.** A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing or parking motor-driven vehicles. The term "repairing" shall not include an automotive body repair shop, nor the rebuilding, dismantling or storage of wrecked or junked vehicles.

**GARAGE, STORAGE.** A building or portion thereof designed or used exclusively for term storage by prearrangement of motor-driven vehicles, as distinguished from

daily storage furnished transients, and at which motor fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.

**HEIGHT OF BUILDING.** The vertical distance from grade of the front elevation of the building to the highest point of the coping if a flat roof, or to the deck line of a mansard roof, or the average height between the plate and ridge of a gabled, hip or gambrel roof.

**HOME OCCUPATION.** Any occupation within a dwelling and clearly incidental thereto carried on by a member of the family resident on the premises, provided that no person not a resident on the premises is employed. The primary sale of goods or services in connection with such occupation shall be that which is prepared or produced upon the premises. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes or odors detectable to the normal senses off the lot. In case of electrical interference, no equipment or process shall be used which creates visible or audible interference in any radio or television receivers off the premises. No advertising sign is displayed other than a name plate not exceeding one square foot in area and there is no other exterior indication that the building, including accessory buildings, are being used for any purpose other than a dwelling.

**HOTEL.** A building in which lodging, or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all the rooms are made through an inside lobby or office supervised by a person in charge at all times. As such, it is open to the public in contradistinction to a boarding house, a lodging house or an apartment house which are herein separately defined.

**HOUSE AREA.** The area in square feet within the building or house including all exterior walls. Interior patios, courts or garages shall not be included.

**INSTITUTION.** A non-profit establishment for public use.

**LOT.** A parcel of land or area which is platted and placed on record in accordance with the various ordinances and laws. A **LOT** may also be construed to mean a parcel of land that is described by a metes and bounds legal description which is held in separate ownership.

**LOT, CORNER.** A lot abutting upon two or more streets at their intersection.

**LOT, DEPTH.** A distance from the front to the rear of the lot line measured in a mean direction to the side lot lines.

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT OF RECORD.** A lot which is part of a subdivision, the map of which has been recorded in the office of the County Clerk or a parcel of land, the deed of which has been so recorded.

**LOT, THROUGH (DOUBLE-FRONTAGE).** An interior lot having frontages on two streets.

**LOT, WIDTH.** The shortest distance perpendicular to the depth of a lot at a point along the front yard depth line.

**MOTEL (MOTOR COURT, MOTOR HOTEL, MOTOR LODGE).** A building or buildings in which lodging or boarding and lodging are provided and offered to the public for compensation. As such, it is open to the public in contradistinction to a boarding house, a lodging house or a multiple dwelling which are herein separately defined.

**NON-CONFORMING USE.** The lawful use of land or a building, or a portion thereof, which use does not conform with the use regulations of the district in which it is located.

**NURSING HOME.** A home for the aged, or infirm in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care

for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**PARKING SPACE, OFF-STREET.** An all-weather surfaced area not in a street or alley and having an area of not less than 180 square feet, permanently reserved for temporary storage of one automobile and connected with a street or alley by an all-weather surfaced drive-way which affords ingress and egress for an automobile and in case of Multiple Dwelling Units (R-1 and R-2) without requiring another automobile to be moved.

**PREMISES.** A lot together with all buildings and structures thereon.

**STRUCTURE.** Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground; including, but without limiting the generality of the foregoing, advertising signs, billboards, back stops for tennis courts and pergolas.

**STRUCTURAL ALTERATION.** Any change except those required by other chapter, which would prolong the life of the supporting member of a building or structure, such as bearing walls, columns, beams or girders, not including openings in bearing walls as permitted by other chapters.

**TRAILER HOUSE or MOBILE HOME.** A trailer house or mobile home is a single-family dwelling designed for transportation, after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assemble operations, location on jacks or permanent foundations, connection to utilities and the like.

**TRAILER HOUSE or MOBILE HOME COURT.** An area of land on which two or more trailer houses or mobile homes being used for living purposes are parked in rental spaces.

**TRAILER HOUSE or MOBILE HOME SUBDIVISION.** A subdivision designed and intended for residential use, where residence is exclusively in trailer house or mobile homes.

**TRAVEL TRAILER COURT.** An area of land on which two or more travel trailers are parked in rental spaces for periods not exceeding 30 days during any twelve-month period.

**YARD.** An open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this code.

**YARD, FRONT.** An open area extending across the full front of the lot and having a depth equal to the shortest distance between the front of the lot and the nearest wall of the main building and is unoccupied and unobstructed by any structure or building.

**YARD, REAR.** An open area extending across the full width of the area of the lot and having a depth equal to the shortest distance between the rear lot line and the closest part of the building or structure.

**YARD, SIDE.** An open area extending across the whole depth of the lot, adjacent to the respective side lot lines and having a depth equal to the shortest distance between the side lot line and the closest edge of the building or structure.

(C) *Standards for manufacturing uses.*

(1) It shall be the duty of the owner, operator or proprietor of an activity to submit a written statement of compliance with the performance standards for manufacturing zoning upon request of the Mayor and Board of Trustees after the effective date of this chapter.

(2) Any existing use, building or land that is non-conforming with respect to performance standards shall be subject to penalties according hereto.

(3) Noise standards.

(a) Maximum permitted sound pressure levels

<i><b>Octave Band Cycles per Second</b></i>	<i><b>Sound Pressure Level Decibels</b></i>
0—75	79
76—149	74
150—299	66
300—599	59
600—1,199	53
1,200—2,399	47
2,400—4,799	41
4,800 and over	39

(b) The sound pressure level shall not exceed the maximum decibel levels for the designated octave band at any point on or beyond the zoned boundary.

(c) If the zone adjoins a zone permitting household units, the maximum permitted decibel level at the boundary shall be reduced by six decibels from the maximum permitted.

(D) *Vibration standards.*

(1) Maximum permitted steady-state and impact vibration displacement.

<i><b>Frequency (Cycles per Second)</b></i>	<i><b>Vibration Displacement (Inches)</b></i>	
	<i><b>Steady State</b></i>	<i><b>Impact</b></i>
Under 10	.0005	.0010
10—19	.0004	.0008
20—29	.0003	.0006
30—39	.0002	.0004
40 and over Three component measuring system	.0001	.0002

(2) The vibration displacement either steady-state or impact relating to the designated frequency band shall not be exceeded at any point on or beyond the zone boundary.

(E) *Fire and explosive hazards.*

(1) Storage, utilization or manufacture of solid material or products including incombustible to moderate burning is permitted.

(2) Storage, utilization or manufacture of solid materials or products including free burning and intense burning is permitted; provided that, the materials or products shall be stored, utilized or manufactured within completely enclosed building having incombustible walls and protected throughout by an automatic fire extinguishing system.

(3) The storage, utilization or manufacture of flammable liquids or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with the

following table- exclusive of storage of finished products in original sealed containers, which shall be unrestricted.

(When flammable gases are stored, utilized or manufactured, and measured in cubic feet, the quantity in cubic feet [S.T.] permitted shall not exceed 300 times in quantities as listed below where the factor 300 is the volume in cubic feet occupied by one gallon of the liquids.)

<b><i>Total Capacity of Flammable Materials Permitted (In Gallons)</i></b>		
<b><i>Industries Engaged in Storage Only</i></b>	<b><i>Above Ground</i></b>	<b><i>Under Ground</i></b>
Materials with closed cup		
Flash point over 187° F	Prohibited	100,000
Flash point over 105° F	Prohibited	40,000
Flash point under 105° F	Prohibited	20,000
<b><i>Industries Engaged in Utilization and Manufacture of Flammable Materials</i></b>		
Materials with closed cup		
Flash point over 187° F	50,000	100,000
Flash point over 105° F	20,000	40,000
Flash point under 105° F	5,000	10,000

(F) Electromagnetic interference. No use, activity or process shall be conducted which causes electromagnetic interference with normal radio or television reception in the residential zone.

(Ord. 77, passed 3-8-1984)

#### **§ 154.43 SPECIFICATIONS GENERALLY.**

(A) Development plan. The application for special use permits shall be made in writing on forms prescribed by the Building Inspector. Each application shall be accompanied by development plans which shall:

- (1) Be drawn to a minimum scale of one inch equals 50 feet (1"=50').
- (2) Show boundaries of the property to be developed.
- (3) Show existing topography with contour intervals of not less than two feet.
- (4) Show the proposal size, location, use and arrangement of buildings, parking areas with proposed arrangement of stalls and the number of cars, entrance and exit driveways, and their relationship to existing and proposed streets.
- (5) Show the drainage plan with sufficient control grades to indicate the intent of the developer.
- (6) Indicate the location, type, use, and size of structures on adjacent properties within (200 feet of the proposed development.



(7) Provide for the dedication of any rights of way for the widening, extension, or connection of major streets or highways. Present indication of approval by the Division of Highways of entrances from the highway is so located.

(8) Indicate the stages, if any, which will be followed in the construction of the development.

(9) Show a general plan of landscaping within the site if landscaping is required as a condition of approval by the Governing Body.

(10) Show the location and size of off-street loading areas.

(11) Convey the title of the special use as stated in the Principle Use Table.

(12) Note the basic standards being observed, as applicable.

(13) Note the standards for manufacturing use being observed, as applicable.

(14) Note the specifications being observed, as applicable.

(a) *Drive-In theater.*

1. Lay-out and design:

a. The lot shall not be less than four acres in size.

b. Any screen less than 500 feet from an arterial street

or state highway shall be located or shielded that the picture surface cannot be seen by passing motorists.

c. The site shall be enclosed with a solid wall or fence at least 6 feet high.

2. Lighting. All lighting shall be deflected downward and away from any adjoining or facing property, streets or rights-of-way.

3. Entrance and exit.

a. Entrance and exit for any site abutting a state highway shall be approved in writing by the State Highway Department. Otherwise, approval can be given in writing by the Village Governing Body.

b. Reserve off-street standing space or side service road space shall be provided at any entrance sufficient to accommodate vehicles in an amount equal to at least 30% of the vehicular capacity of the theater.

c. Visual clearance must be maintained at all intersections of entrances and exits with public ways.

d. Any building or structure shall be at least 50 feet from any street on any side where exit or entrance is permitted.

(b) *Group housing development.* It is intended that this chapter provide for the development of residential modules of court and cluster arrangements that would encourage the filling in of vacant land in styles or patterns that conform to the variety of land form of the village.

1. Layout and design.

a. The tract may be as small as one acre but not larger than five acres not subdivided into streets and lots.

b. The tract will not be subsequently divided while remaining as a group housing development;

c. When existing or proposed street and lot patterns make it impossible to apply basic standards requirements of this chapter, the Village Governing Body may waive the basic standards provided:

i. The general object and purpose of this chapter is upheld;

ii. Residential density standards and yard specifications comply with this chapter in the zone which the development is to be located.

2. Security.

a. Areas not falling within the village illumination pattern shall be lighted;

b. Where the development plan includes parking centers the area for parking shall be in full view of all household units.

3. Streets. Streets providing entrance into and exit from will be considered village or public streets and will comply to village street classifications and corresponding surface requirements.

(c) *Industrial park.* An industrial park is intended primarily for manufacturing, storage or warehousing and trades and services uses related to the manufacturing use.

1. Layout and design.

a. The minimum site area is five acres;  
b. The front yard of the Industrial Park shall not be less than 50 feet and a minimum landscaped strip of ten feet shall be maintained between parking areas and the street rights-of-way;

c. The minimum rear yard shall not be less than 25 feet.

2. Streets (private).

a. The width of all private streets shall not be less than 25 feet.

b. Streets surfaces shall conform to residential collector street surface specifications of the Village.

3. Open space. No more than 50% of the surface of the site shall be covered with a building or buildings.

(d) *Mobile home park.*

1. Park layout and design.

a. Minimum park size. All mobile home parks established after the effective date of this chapter shall be a minimum of one acre in size.

b. Minimum lot size. The lot for each mobile home shall be at least 2,250 square feet and at least 25 feet wide.

c. Patios. A paved patio of not less than 100 square feet contiguous to the home foundation or pad is required.

d. Walkways.

i. A system of pedestrian walkways should link each space to common areas, recreation and service areas to one another.

ii. The walkways shall provide safe and convenient pedestrian access in all seasons.

2. Streets:

a. The driveway leading to or from a public street shall be two-way and at least 24 feet wide;

b. The driveway shall conform to residential service street surface requirements of the Village.

c. No lot shall have direct access to public street.

3. Yards:

a. Setback: Setback is the shortest or most direct distance between the property line and the building, dwelling or structure.

b. A mobile home shall be located no closer than ten feet from any contiguous property line.

i. The distance can be reduced to five feet if a solid wall or fence six feet high along the property line is erected, street frontage exempted.

ii. Twenty five foot-setback is required when the home is located along a primary arterial street.

iii. There shall be 15 feet of open space between each mobile home, household units or other buildings.

iv. The back to back spacing between mobile homes or other buildings shall not be less than ten feet.

v. Corner location shall be sufficiently larger than other spaces to allow for maintenance of building lines of both streets.

4. Open space: A minimum of 900 square feet of open space is required for each mobile home; 40% of the lot size.

5. Landscaping: Trees and shrubs to his objectionable views, provide shade, provide an attractive setting, increase amenity, ensure privacy, minimize glare and prevent or minimize erosion and reduce noise are encouraged.

6. Walls: The park shall have a solid wall or solid fence of masonry, wood or metal at least five feet high on all sides of the site but not closer than ten feet from the rights-of way of a public street.

7. Parking and services:

a. Parking requirements shall conform to off-side parking specification.

b. Plus one space per eight mobile homes for guests.

c. Utilities shall be underground.

d. Outside lighting shall be arranged to reflect downward and away from adjacent property.

8. Storage:

a. Trash and drying areas shall be screened.

b. Each site or within 100 feet of the site shall have a storage cabinet of 90 cubic feet.

(e) *Trailer or mobile home courts in R-2, and trailer of mobile home subdivision in C-1.*

1. The minimum lot area for a travel trailer site shall be 1,000 square feet; the minimum lot area for a trailer or mobile home site for parking one trailer or mobile home shall be 2,000 square feet; and the minimum width for all trailer sites shall be 30 feet, with corners of each site visibly marked by a permanent marker.

2. In addition to the above requirements a travel trailer court shall contain at least 800 square feet per trailer space, and a trailer or mobile home court or

subdivision shall contain at least 1,000 square feet per trailer for community facilities, including play space, utility rooms, parking and access roads.

3. Side to side spacing between trailers shall be at least 20 feet, back to back spacing shall be at least 15 feet, and no part of a trailer shall extend closer than five feet to the boundaries of the individual trailers.

4. Off street parking spaces in trailer courts for automobiles shall be provided in ratio of one space per trailer in locations convenient to individual trailers or groups of trailers. In trailer subdivisions there shall be one space per trailer on the lot.

5. Proper provision shall be made for public water supply, sanitary sewers, fire protection, refuse collection, laundry, toilet and bathing facilities.

6. No lots within a trailer court shall be sold, and no plats shall be approved converting a trailer court into a trailer or mobile home subdivision.

7. Landscaping; trees and shrubs to hide objectionable views, provide shade, provide an attractive setting, increase amenity, ensure privacy, minimize glare and prevent or minimize erosion and reduce noise are encouraged.

8. The park shall have a solid wall or solid fence of masonry, wood or metal at least five feet high on all sides of the site abutting residential zoning but not closer than ten feet from the right-of-way of a public street.

(f) *Mobile home.* A mobile home located in a zone as a single-family house as provided in this chapter shall conform to the standards in that zone. A mobile home permit from the village will be assessed as follows:

1. a. Hud labeled mobile home not older than ten years of age:

b. Single Wide, flat fee of \$70;

c. Double Wide, flat fee of \$140; and

d. Triple Wide, flat fee of \$210.

e. A mobile home permit from the Village Code

Inspector is required before installation or mounting of a mobile home is permitted. The mobile home shall contain not less than 600 square feet of living space in the basic structure, not counting any additions thereto.

2. Layout and Design: The mobile home lot shall be graded for water run off and appropriately landscaped.

3. Walks, driveways and parking area shall be maintained on the lot.

4. Foundation/Blocking: See the Manufactured Housing Act, being NMSA §§ 60-14-1 *et seq.*

5. Appearance.

a. Double wide mobile homes are required to contain matching units made by the same manufacturer unless plans for unmatching units are approved by the Board of Trustees.

b. Skirting: An appropriate, non-flammable skirting is required for all mobile homes. See the Manufactured Housing Act, being NMSA §§ 60-14-1 *et seq.*

c. Damaged Units. The village will not allow damaged units to be installed within the village limits. In the event the Village Trustees determine that a unit is damaged or not of appropriate exterior quality for placement within the village the

building permit shall not be approved unless repair to the unit is made as part of the building permit application, to be completed before final inspection.

6. Removal.

a. A permit is required to remove a mobile home from a lot once it is located on a foundation.

b. After a mobile home is removed, the site shall be restored to original or better condition.

(g) *Nursery school.* Any and all outdoor play activities shall be conducted within a fenced play area and no outdoor play activities shall be conducted before 8:00 a.m. or after 6:00 p.m.

1. Layout and design:

a. Total lot area shall not be less than the minimum lot area specified in the zone in which the educational service is allowed.

b. A fenced play area shall be provided which has a minimum area of 200 square feet for each child being accommodated and a total area which shall not be less than 4,000 square feet;

c. No part of a fenced play area shall be closer than 25 feet to any lot line, nor closer than 50 feet to any public street.

2. Walls: A solid wall or solid fence of masonry, wood or metal at least five feet high on all sides abutting residential zones.

3. Parking lots. A parking lot is a tract or area on a lot or plat which contains four or more off street parking spaces.

a. Every parking lot shall have a solid wall or solid fence of masonry, wood or metal at least five feet high on all sides abutting residential zones. As used in this section, a solid wall or solid fence shall mean a wall or fence which one cannot see through. This section shall also apply to parking lots which abut a street which then abuts a residential zone. This fencing shall be completed within six months of occupancy by a new owner or lessee, unless an extension of time is granted by the Village Board of Trustees.

b. All lighting shall be deflected downward and away from any adjoining or facing premises in any residential zone.

c. No commercial repair work or servicing of automobiles shall be conducted on a parking lot.

d. No advertising sign shall be permitted on a parking lot other than that applying to the parking lot.

e. All parking lots shall be maintained and serviceable. Surfacing as described within this section shall be completed within six months of occupancy by new owner or lessee unless an extension of time is granted by the Village Board of Trustees. The lot must be graded and surfaced with one of the following:

i. Asphalt, double penetration chip seal over a compacted subgrade, or

ii. Two inches of hot mix of asphaltic concrete on prime coat over a compacted subgrade, or

iii. Four-inch concrete.

f. The lot shall have anchored six-inch high bumpers or curbing adjacent to public right of way, so placed as to prevent a vehicle from extending beyond the property line, or a wall or fence adequate to prevent a vehicle from extending beyond

the property line. A barrier which prevents vehicles from extending beyond the property shall be used along other boundaries.

g. Ingress or egress shall be designed to discourage parking lot traffic from using local residential streets for more than 150 feet unless no reasonable alternative is available.

(h) *Security buildings.* A security building shall be used for security purposes only. No living quarters and storage provisions outside of necessary equipment for performance of duties shall be provided.

1. Layout and design:

a. Building size: No building shall be less than 40 square feet in size.

b. Location: The building shall be located in conformance with ancillary building uses.

c. Foundation: Bearing walls shall be supported on solid masonry or concrete footings or piles of sufficient size to support all loads and be bolted to the foundation.

d. Services:

i. Utilities necessary to heat and light the building are required.

ii. Restroom facilities for use by the occupant shall be provided.

(i) *Shopping center.* The tract on which the shopping center is to be located should be of sufficient size, shape and location to enable the development of trade and service facilities with proper access streets, off-street parking and loading space and other requirements.

1. Layout and design:

a. The minimum site area is two acres.

b. The minimum depth of the front yard shall not be less than 35 feet.

c. The minimum depth of the rear yard shall not be less than 25 feet.

d. Parking lots, malls and walkways shall be appropriately landscaped.

e. A public restroom shall be included in the development plan.

2. Streets:

a. All curb corners at access points with village streets shall have radii of not less than 15 feet.

b. The internal streets and parking areas shall be surfaced in accordance with the specifications of the village.

3. Open space. No more than 50% of the surface of the site shall be covered with a building or buildings.

4. Flood Channel Use. On the basis of engineering studies, uses will be permitted in areas which have been designated as flood hazard areas in the village's Special Flood Hazard Area Boundary Maps.

## Williamsburg, NM Code of Ordinances

a. i. Changes in existing uses or proposed new uses must conform with Title 24, Housing and Urban Development, Chapter 10, Federal Insurance Administration, Subchapter 8, National Flood Insurance Program on file in the Village Clerk/Treasurer's Office.

ii. An application for a use permit must include a contour map referenced to the datum plane approved by the village for the National Flood Insurance Program, prepared by a registered New Mexico Civil Engineer, which indicated the extent and elevations of all proposed construction, alterations, mining, excavation and landfilling.

b. An application must include studies required to determine the effects of floods with average return frequencies of once in one hundred (100) years on the proposed structure or activity, attendant utility and sanitary facilities, and the effect of the proposed structure or activity on the arroyo or flood drainage channel when carrying floods of this magnitude.

c. Prior to the issuance of a permit, the Building Inspector must examine the plans and land of the applicant. The Building Inspector must find and so certify to the Governing Body, that the building, structure, or activity conforms to the provisions of the National Flood Insurance Program and thus will not constitute a hazard to persons or property, will not divert water from or obstruct the natural flow of water in the arroyo or flood drainage channel, will not cause flooding of land outside the natural drainage course, and will not reduce or endanger the water carrying capacity of the arroyo or flood drainage channel.

5. Land rehabilitation. Excavating, removing, processing, stockpiling, or distribution of rock, sand, gravel, clay pumice, scoria, decomposed granite or similar materials, or other depleted land resulting from such uses shall be rehabilitated.

a. Grading or backfilling shall be made with non-noxious, nonflammable, non-combustible solids.

b. Graded or backfilled land shall not collect and permit stagnant water to remain therein.

c. Peaks and depressions of the area shall be reduced to a surface which will result in topography in substantial conformity to the land area immediately surrounding and which will minimize erosion caused by rainfall and run off.

(B) Specific specifications:

(1) Off-street parking.

(a) On site off-street parking spaces shall be provided in connection with the erection, construction or increase by units of dimension of any building structure. A parking space is an area on a lot or tract containing sufficient space to store one automobile and containing not less than 180 square feet and having egress or ingress at all times to public rights of way of streets without moving any other automobile.

<b><i>Principal Use Category</i></b>	<b><i>Requirement</i></b>
(1) Residential	Household units: 1 -1/2 parking spaces per household unit. Group quarters: 1 parking space for each 2 sleeping rooms; residential halls, dormitories, rooming or boarding houses. 1 parking space for each two active members Membership lodges, plus 1 additional space for each 2 employees.
(2) Manufacturing	Two parking spaces for each 3 employees on the max. shift, plus space to park trucks.

<i><b>Principal Use Category</b></i>	<i><b>Requirement</b></i>
	other vehicles.
(3) Transportation, communication and utilities	Passenger terminals: 1 parking space for each seat in the seating area plus 1 parking space for each 2 employees. Studios: 1 parking space for each 4 seats. Utilities: 2 parking spaces for each 3 employees on max working shift plus space for trucks and other vehicles.
(4) Trade	Wholesale trade: 2 parking space plus 1 parking space for each 300 square feet of gross floor area; not including loading and unloading requirements. Retail trade: 2 parking spaces plus 1 parking space for each 200 square feet of gross floor area; not including loading and unloading requirements. Off-site, off-street parking spaces within 400 feet.
(5) Services	Finance, Insurance and Real Estate: 1 parking space for each 200 square feet of gross floor area. Personal, Business, Repair Services and Contract Construction: 2 parking spaces plus 1 parking space for each 300 square feet of gross area plus space to park all trucks and trailers. Professional: Med. or Dental clinic: 5 parking spaces per Dr. plus 1 space for each 2 employees. Hospital, Sanitarium or Nursing Home: 1 parking space for 2 patient beds plus 1 parking space for each staff, plus 2 spaces for each staff, plus 2 spaces for each 4 employees including nurses. Legal: 1 parking space for each 200 square feet of gross office floor area. Govt.: 2 parking spaces for each 3 employees. Educational: 1 parking space for each 2 employees, teacher and admin. 1 parking space for each 4 seats in main auditorium or on-site gym, stadium or sports area of elementary, middle, secondary schools, college and special training and schooling. Miscellaneous Services: 1 parking space for each 4 seats in main auditorium or on-site gym, stadium or sports area of elementary, middle, secondary schools, college and special training and schooling. space for each 4 seats in main auditorium or 1 parking space for each 5 members including clubs, assoc., unions and organizations.
(6) Cultural, entertainment and recreation	Cultural activities and Nature Exhibitions: 10 parking spaces, plus 1 additional parking space for each 200 square feet of floor area in excess of 2,000 square feet. Public Assembly: 1 parking space for each 4 seats or seating places. Amusements and Rec. Activities and Resorts: 1 parking space for each 200 square feet of gross floor area, 1 parking space for each 3 employees, additional 1 for each 4 parking spaces rated capacity.

(b) General rules off-street parking requirements:

1. Mixed uses: In the case of mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses. Parking facilities provided for one use shall not be considered as providing the required parking facilities for any other use unless specifically approved by the Governing Body.

2. Changes in Parking Spaces Requirements: Whenever there is a change in the number of employees or business patrons, a change in the lawful use of the premises, or a change in any other unit of measurement specified in any of the foregoing paragraphs of this subsection, and whenever such change creates a need for an increase or decrease of more than fifteen percent (15%) of the number of off-street automobile parking



spaces as determined by the facilities shall be provided within a reasonable time on the basis of the adjusted needs, as determined by this subsection.

(c) Design standards:

1. Off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley as well as maneuvering areas. No driveway or curb-cuts in any district shall exceed 25 feet in width, and detailed plans shall be submitted to the Building Inspector for approval for all curb-cuts or driveway openings before a permit may be obtained.

2. Parking areas shall:

- a. Be paved with an asphaltic, concrete or other appropriated surface;
- b. Afford adequate drainage;
- c. Have bumper guards where needed; and
- d. Be provided with necessary lane and safety markings.

(2) Signs:

(a) General regulations:

1. Permit: A sign permit shall be obtained from the village for each free standing sign erected. Board of Trustee approval shall be necessary.

- a. Those inside buildings.
- b. Building sale or rental signs under 6 square feet in area.
- c. Official historic markers and signs required by law.
- d. Those temporary signs advertising community, civic, political, religious events, museums, or construction projects.

e. Trade and services signs oriented toward freeway.

2. Illuminated sign. Illuminated signs shall be turned off at 10:00 p.m. Mountain Standard Time unless the business is conducted beyond that hour.

- a. Sign Illumination shall not flash, blink, vary in intensity, revolve or otherwise appear to be in motion.
- b. Sign illumination shall be indirect with the source of the light concealed from direct view.

3. Location: No sign shall be erected or maintained on or over public property except as specifically authorized for:

- a. Wall signs projecting over a front property line where the building wall is less than one foot from the property line.
- b. Temporary signs.

4. Safety:

a. No signs shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.

b. No sign or other advertising structure as regulated by this chapter shall be erected along any streets in such a manner as to obstruct free and clear vision and create a traffic hazard.

c. Signs shall not be located with less than six feet horizontal nor 12 feet vertical clearance from overhead electric conductors.

- d. No sign shall have movable parts or audible devices.
- 5. Home occupation sign: A single face sign that identifies an ancillary use trade and services.
  - a. The sign shall not exceed one square foot in area.
  - b. The sign is not illuminated.
  - c. The sign is attached and parallel with the dwelling.
  - d. Only one sign is allowed per dwelling unit.
- 6. Building, sale or rental sign: A single face sign for identification sale or rental of an apartment, dwelling unit.
  - a. The sign shall not exceed 20 square feet in area or five feet in height for the main building.
  - b. Each sign may be illuminated.
  - c. The sign may be free standing or wall mounted.
- 7. Trade and services sign: A sign located on private property and advertises, identifies or directs to a use conducted on the same premises.
  - a. The total aggregate of all faces of signs or combinations of signs allowed for the property on which the use is located shall not exceed 64 square feet of sign area and shall not exceed eight feet in any one of its dimensions.
  - b. Business fronting on more than one street will be allowed an additional sign area equal to 50% of the main street frontage.
  - c. The height of a free standing sign shall not exceed 15 feet. A sign mounted or attached to a building may not extend more than five feet above the building height.
  - d. Not more than two signs are permitted with street frontages of 60 feet or less. Not more than four signs are permitted. A composite of small signs integrated into one framed unit shall constitute one sign.
  - e. Trade and services oriented toward freeway traffic shall be permitted one free-standing business sign consisting of one name and/or emblem which shall not be included in the computation of total allowable sign area, but shall be included as one of the maximum number of signs allowed for each business, provided:
    - i. Such sign shall not exceed a total of 480 square feet in area.
    - ii. The height of such sign shall not exceed 35 feet above the ground level at the base of the sign or 35 feet above the elevation of the freeway at its closest point to the site, whichever is higher.
  - f. On-premise signs directing customer traffic or to specific services area shall be allowed in excess of the number and square footage limitations, provided the aggregate does not exceed 20 square feet.
- 8. Advertising sign: A sign located on vacant private property.
  - a. The total area of each face appendages of such signs shall not exceed 64 square feet.
  - b. No signs shall be illuminated.
  - c. The maximum height of the sign shall not exceed 15 feet.

d. No sign shall be nearer than 150 feet to any other advertising sign, except that two signs may be placed back to back.

e. No sign shall be nearer than 75 feet to any adjacent conforming residential property or within 12 feet of the nearest street right of way.

9. Temporary Sign: Permits for temporary signs authorize erection of such signs and their maintenance for a period not to exceed 30 days. The advertisement shall pertain only to use conducted on the premises. Civic, political or religious use exonerated.

a. The size of the sign shall not exceed four feet in any one of its dimensions.

b. The sign shall not extend over public property greater than four inches from the wall upon which it is erected.

c. Cloth signs may extend over public property at a minimum clearance of 20 feet.

10. a. Sign Removal: Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, lot or structure upon which such sign may be found.

b. Every sign or other advertising structure in existence upon adoption of this Code shall not be altered, removed unless it be made to comply with the provisions of this Code. Any sign which became a non-conforming sign under the provisions of this chapter shall be removed or altered to comply with this chapter within five years from 3-8-1984, the effective date of this chapter.

11. Non-Conforming Signs: Every other sign erected prior to the adoption of this chapter which is not in conformity therewith, shall be removed or altered to comply with this chapter within five years from the effective date of this chapter.

12. Yards:

a. Open space:  
i. Forty percent of the lot area must be open to the sky;

ii. The open space shall be free and clear of trash, unsafe ancillary buildings and inoperative vehicles.

b. Area:  
i. Where an official line has been established for future widening or opening of a street, then the depth of a front or side yard abutting the line shall be measured from such official line to the nearest line of the building.

ii. No additional household unit may be constructed on a lot which has an area equivalent to two or more times the area required by this chapter, but without sufficient width for two or more lots;

iii. All residences must front on a dedicated street;

iv. The yard or court of a building or lot cannot be considered as providing a yard or court area for another building or lot;

v. Where a lot is used for trade services or manufacturing purpose, more than one main building may be located on the lot.

vi. Commercial Zone C-1 (Buildings)

setback is 25 feet; except that :

constructed on front property line, provided:

available on an adjacent lot; and

is granted on an individual basis.

setback is three feet; except that, a commercial building may be constructed on the side property line when such line abuts a street.

setback is five feet.

(Ord. 77, passed 3-8-1984)

- a. The minimum depth of front yard
- b. A commercial building may be
  - i. Off-street parking is made
  - ii. Board of Trustees' approval
- c. The minimum depth of side yard
- d. The minimum depth of rear yard

#### § 154.44 PRINCIPAL USES TABLE.

(A) The categories of land uses shown in the following table are reproduced from the Standard Land Use Coding Manual, U.S. Department of Transportation, 1969, Washington, D.C.

(B) The zones shown in notation at the top of the pages and at the head of columns are the zones established by the Zoning Ordinance of the village.

(C) Letters at the intersection of the category line and the zone notation column symbolize the allowable uses in each zone.

1. P- Permitted Use. Standards and Specifications for that zone must be observed. A permit is Required. Board of Trustee approval necessary.

2. C- Conditional Use. Standards and Specifications for that zone must be observed. A permit is Required. Board of Trustee approval necessary.

(E) Categories shown in the tables are, usually, broken down into greater detail in the referenced manual.

(F) Use symbols shown in the tables would also apply to the lower order of detail shown in the reference manual.

<b>A STANDARD SYSTEM FOR IDENTIFYING AND CODING LAND USE</b>			
<b>CODE</b>	<b>CATEGORY</b>	<b>CODE</b>	<b>CATEGORY</b>
1	Residential	11	Household units.
		12	Group quarters.
		13	Residential hotels.
		14	Mobile home parks or courts.
		15	Transient lodging.
		19	Other residential.
2	Manufacturing	21	Food and kindred products-manufacturing.
		22	Textile mill products-manufacturing.
		23	Apparel and other finished products made from fabrics, leather, and similar materials-manufacturing.

<b><i>A STANDARD SYSTEM FOR IDENTIFYING AND CODING LAND USE</i></b>			
<b><i>CODE</i></b>	<b><i>CATEGORY</i></b>	<b><i>CODE</i></b>	<b><i>CATEGORY</i></b>
		24	Lumber and wood products (except furniture) manufacturing.
		25	Furniture and fixtures-manufacturing.
		26	Paper and allied products-manufacturing.
		27	Printing, publishing, and allied industries.
		28	Chemicals and allied products-manufacturing.
		29	Petroleum refining and related.
3	Manufacturing	31	Rubber and miscellaneous plastic product manufacturing.
		32	Stone, clay, and glass p-m.
		33	Primary metal industries.
		34	Fabricated metal products-manufacturing.
		35	Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks-manufacturing.
4	Transportation communications and	41	Railroad, rapid rail transit, and street railway transportation.
		42	Motor vehicle transportation.
		43	Aircraft transportation.
		44	Marine craft transportation.
		45	Highway and street right-of-way.
		46	Automobile parking.
		47	Communication.
		48	Utilities.
		49	Other transportation, communication, and utilities.

<b><i>A STANDARD SYSTEM FOR IDENTIFYING AND CODING LAND USE</i></b>			
<b><i>CODE</i></b>	<b><i>CATEGORY</i></b>	<b><i>CODE</i></b>	<b><i>CATEGORY</i></b>
5	Trade	51	Wholesale trade.
		52	Retail trade-building materials, hardware and farm equipment.
		53	Retail trade-general merchandise.
		54	Retail trade-automotive, marine craft, aircraft, and accessories.
		56	Retail trade-apparel and accessories.
		57	Retail trade-furniture, home furnishings and equipment.
		58	Retail trade-eating and drinking.

<b>A STANDARD SYSTEM FOR IDENTIFYING AND CODING LAND USE</b>			
<b>CODE</b>	<b>CATEGORY</b>	<b>CODE</b>	<b>CATEGORY</b>
		59	Other retail trade.
6	Services	61	Finance, insurance, and real estate services.
		62	Personal services.
		63	Business services.
		64	Repair services.
		65	Professional services.
		66	Contract construction services.
		67	Governmental services.
		68	Educational services.
		69	Miscellaneous services.
6	Cultural, entertainment, and recreational	71	Cultural activities and nature exhibitions.
		72	Public assembly.
		73	Amusements.
		74	Recreational activities.
		75	Resorts and group camps.
		76	Parks.
		79	Other cultural, entertainment, and recreational.
7	Resource production and extraction	81	Agriculture.
		82	Agricultural related activities.
		83	Forestry activities and related services.
		84	Fishing activities and related services.
		85	Mining activities and related services.
		89	Other resource production and extraction.
9	Undeveloped land and water areas	91	Undeveloped and unused land area (excluding noncommercial forest development).
		92	Noncommercial forest development.
		93	Water areas.
		94	Vacant floor area.
		95	Under construction.
		99	Other undeveloped land and water areas.

<b>Principal Uses</b>		<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-1</b>
11	<b>HOUSEHOLD UNITS</b>				
	Single-family		P	P	P
	Single-family modular houses	P	P	P	
	Two-family houses			P	P
	Trailer house or mobile house		P	P	

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Two-family modular houses		P	P	
	Three-family houses		P	P	
	Three-family modular houses			P	
	Four-family houses				P
	Four-family modular houses			P	
	More than four-family house			C	C
12	<b>GROUP QUARTERS</b>				
	Room and boarding houses		P	P	P
	Membership lodgings				
	Fraternity and sorority houses				
	Other membership lodgings		C	P	P
	Residence halls or dormitories				
	Nurses' homes		C	P	P
	College dormitories		C	P	
	Other residence halls or dormitories		C	C	C
	Retirement home and orphanages				
	Retirement homes		C	C	P
	Religious quarters				
	Rectories	P	P	P	P
	Other religious quarters		C	C	P
	Other group quarters		C	C	C
13	<b>RESIDENTIAL HOTELS</b>		C	P	P
14	<b>MOBILE HOME PARKS OR COURTS</b>			C	P
15	<b>TRANSIENT LODGINGS</b>				
	Hotels, tourist courts and motels				P
	Other transient lodgings, nec				P
21	<b>FOOD AND KINDRED PRODUCTS-MANUFACTURING</b>				P
	Meat products				
	Meat packing				C
	Sausages and other prepared meat products				C
	Poultry and small game dressing and packing				C
	Dairy products				
	Creamery butter				C
	Cheese, natural and processed				C
	Condensed and evaporated milk				C

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<i><b>Principal Uses</b></i>		<i><b>R-1</b></i>	<i><b>R-2</b></i>	<i><b>R-3</b></i>	<i><b>C-1</b></i>
	Ice cream and frozen desserts				C
	Fluid milk processing				C
	Canning and preserving of fruits, vegetables and seafood				C
	Grain mill products				C
	Bakery products				P
	Confectionery and related products				P
	Sugar				C
	Beverage				
	Malt liquors				C
	Wine, brandy and brandy spirits				C
	Distilling, rectifying and blending liquors				C
	Bottling and canning soft drinks and carbonated waters				C
	Flavor extracts and flavoring syrups				C
	Other food preparations and kindred products nec				
	Cottonseed oil milling				C
	Soybean oil milling				C
	Vegetable oil milling (except cottonseed and soybean)				C
	Animal and marine fats and oil (including grease and tallow)				C
	Roasting coffee and coffee products				C
	Shortening, table oils, margarine and other edible fats and oils				C
	Ice				P
	Macaroni, spaghetti, vermicelli, and noodles				C
	Other food preparations and kindred products				C
22	<b><i>TEXTILE MILL PRODUCTS</i></b>				
	Broad and narrow woven fabrics and other small wares (cotton, manmade fiber, silk and wool)				P
	Knit goods				P
	Dyeing and finishing of textiles (except wool fabrics and knits)				P



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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Floor coverings (rugs and carpets)				P
	Yarns and threads				
	Other textile goods				
23	Apparel and other finished products made from fabrics, leather and similar materials				P
	Men's, youths' and boys' furnishings, work clothing and allied garments				P
	Women's, misses', juniors', girls' children's and infants outwear				P
	Hats, caps and millinery				P
	Leather and leather products				P
	Fur goods				P
	Miscellaneous apparel and accessories				P
	Other fabricated textile products				P
24	<b>LUMBER AND WOOD PRODUCTS (EXCEPT FURNITURE) MANUFACTURING</b>				C
	Sawmills and planing mills				C
	Millwork, veneer, plywood and prefabricated structural wood products wooden containers				C
	Other lumber and wood products (except furniture)				C
25	<b>FURNITURE AND FIXTURES-MANUFACTURING</b>			C	
26	<b>PAPER AND ALLIED PRODUCTS-MANUFACTURING</b>				C
27	<b>PRINTING, PUBLISHING AND ALLIED INDUSTRIES</b>				P
	Newspapers: publishing, publishing and printing				P
	Periodicals: publishing, publishing and printing				P
	Commercial printing				P
	Manifold business forms				P
	Greeting cards				P
	Bookbinding and related industries				P
	Printing trade service industries				P
	Typesetting				P
	Photoengraving				P
	Electrotyping and stereotyping				P
	Other printing and publishing				

<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
28	<b><i>CHEMICALS AND ALLIED PRODUCTS-MANUFACTURING</i></b>				P
	Industrial inorganic and organic chemicals				C
	Plastics materials, synthetic resins, synthetic rubber, synthetic and other manmade fibers (Excluding glass)				C
	Drug				
	Biological products-manufacturing				C
	Medicinal chemicals and botanical products				C
	Pharmaceutical preparations				C
	Soap, detergents, cleaning preparations, perfumes, cosmetics, and other toilet preparations				C
	Paints, varnishes, lacquers, enamels and allied products				C
	Gum and wood chemicals				C
	Explosives				C
	Printing ink				C
	Carbon black				C
	Other chemicals and allied products				C
29	<b><i>PETROLEUM REFINING AND RELATED INDUSTRIES</i></b>				C
	Paving and roofing materials				C
31	<b><i>RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS-MANUFACTURING</i></b>				C
	Tires and inner tubes				C
	Rubber footwear				C
	Reclaiming rubber				C
	Miscellaneous plastic products				C
	Other fabricated rubber products				C
32	<b><i>STONE, CLAY AND GLASS PRODUCTS-MANUFACTURING</i></b>				C
	Flat glass				C
	Glass and glassware (pressed or blown)				C
	Cement (hydraulic)				C
	Other structural clay products				C
	Pottery and related products				C
	Vitreous china plumbing fixtures, china, earthenware				

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Fittings and bathroom accessories				C
	Fine earthenware (whiteware) table and kitchen articles				C
	Porcelain electrical supplies				C
	Other pottery and related products				C
	Concrete, gypsum and plaster products				C
	Lime products				C
	Gypsum products				C
	Cut stone and stone products				C
	Abrasive, asbestos and misc. No metallic mineral products				C
33	<b>PRIMARY METAL INDUSTRIES</b>				C
34	<b>FABRICATED METAL PRODUCTS-MANUFACTURING</b>				C
	Ordinance and accessories				C
	Guns, howitzers, mortars and related equipment				C
	Ammunition (except small arms) mfg. and complete				
	Assembling of guided missiles and space veh.				C
	Tanks and tank components				C
	Sighting and fire control equipment				C
	Small arms				C
	Machinery (except electrical)				C
	Farm machinery and equipment				C
	Construction, mining and material handling				
	Machinery and equipment				C
	Metalworking machinery and equipment				C
	Special industry machinery (except metalworking mach.)				C
	General industrial machinery and equipment				C
	Office, computing and accounting machines				C
	Service industry machines				C
	Other machinery (except electrical)				C
	Electrical machinery, equipment and supplies				C

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Electrical transmission and distribution equipment				C
	Electrical industrial apparatus				C
	Household appliances				C
	Electrical lighting and wiring equipment				C
	Radio and television receiving sets (except communication equipment)				C
	Communication equipment				C
	Electrical components and accessories				C
	Other electrical machinery, equipment and supplies				C
	Transportation equipment				C
	Motor vehicles and motor vehicle equipment				C
	Aircraft and parts				C
	Ship and boat building repairing				C
	Railroad equipment				C
	Motorcycles, bicycles and parts				C
	Other transportation				C
	Other fabricated metal products				C
	Metal cans-manufacturing				C
	Cutlery, hand tools and general hardware				C
	Heating apparatus (except electrical) and plumbing fix.				C
	Fabricated structural metal products				C
	Crew machines products and bolts, nuts, screws, rivets and washers				C
	Metal stamping				C
	Coating, engraving and allied services				C
	Fabricated wire products (miscellaneous products)				C
	Other fabricated metal products				C
35	<b>PROFESSIONAL, SCIENTIFIC, CONTROLLING INSTRUMENTS PHOTOGRAPHIC AND OPTICAL GOODS: WATCHES AND CLOCKS</b>				P
	Engineering, laboratory, scientific and research instruments and ass. equip.				P

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Instruments for measuring, controlling and indicating physical characteristics				P
	Mechanical measuring and controlling instruments (Except automatic temperature controls)				P
	Automatic temperature controls				P
	Optical instruments and lenses-manufacturing				P
	Surgical, medical and dental instruments and supplies				P
	Ophthalmic goods				P
	Photographic equipment and supplies				P
	Matches, clocks, clockwork operated devices and parts				P
	Watches, clocks, clockwork operated devices and parts				P
39	Miscellaneous manufacturing, nfc				
	Jewelry, silverware and plated ware			C	P
	Jewelers' and precious metals			C	P
	Jewelers' findings and materials			C	P
	Lapidary work			C	P
	Silverware and plated ware			C	P
	Musical instruments and parts			C	P
	Toys, amusement, sporting and athletic goods			C	P
	Pens, pencils and other office and artists' materials				P
	Costume jewelry, costume novelties, buttons and misc. notions (except precious metals)			C	P
	Tobacco				C
	Cigarettes				C
	Cigars				C
	Tobacco (chewing and smoking) and snuff				C
	Tobacco stemming and redrying				C
	Motion picture production				P
	Other miscellaneous manufacturing				C
	Brooms and brushes				P
	Linoleum, asphalted-felt-base, and other hard surface floor cover				P
	Matches				P

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Lamp shades				P
	Morticians' goods				P
	Fur dressing and dyeing				P
	Signs and advertising displays				P
	Umbrellas, parasols and canes				P
	Other miscellaneous manufacturing				C
42	<b>MOTOR VEHICLE TRANSPORTATION</b>				
	Bus transportation				P
	Bus passenger terminals (intercity)				P
	Bus passenger terminals (local)				P
	Bus passenger terminals (intercity and local)				P
	Bus garaging and equipment maintenance				P
	Other bus transportation, nec				C
	Motor freight transportation				
	Motor freight terminals				P
	Motor freight garaging and equipment maintenance				P
	Other motor freight transportation, nec				P
	Other motor vehicle transportation, nec				
	Taxicab transportation				P
	Other motor vehicle transportation, nec				C
43	<b>AIRCRAFT TRANSPORTATION</b>				C
44	<b>MARINE CRAFT TRANSPORTATION</b>				P
45	<b>HIGHWAY AND STREET RIGHT-OF-WAY</b>				C
46	<b>AUTOMOBILE PARKING</b>			S	S
47	<b>COMMUNICATION</b>				
	Telephone communication			C	P
	Telephone exchange stations	C	C	C	C
	Telephone relay towers (microwave)				S
	Other telephone communication			C	C
	Telegraph communication				
	Telegraph message centers			C	C
	Telegraph transmitting and receiving stations				S
	Other telegraph communication, nec				C
	Radio communications				P

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Radio broadcasting studios (only)				P
	Radio transmitting stations and towers				S
	Television communication				
	Television broadcasting studios (only)				P
	Television transmitting stations and relay towers				S
	Radio and television communication (combined system)				
	Radio and television broadcasting studios, only (combined system)				P
	Other combined radio and television communication				C
	Other communication				C
48	<b>UTILITIES</b>				
	Electric utility				
	Electric transmission right-of-way	C	C	C	C
	Electric generation plants				C
	Electricity regulating substations				C
	Other electric utility				C
	Gas utility				
	Gas pipelines right-of-way				C
	Gas productions plants				S
	Natural or manufactured gas storage and distribution points				S
	Gas pressure control stations	C	C	C	C
	Other gas utilities				C
	Water utilities and irrigation				
	Water pipeline right-of-way				C
	Water treatment plants (purification)				S
	Water storage				S
	Water pressure control stations	C	C	C	C
	Other water utilities and irrigation				
	Sewage disposal				
	Sewage treatment plants				S
	Sewage sludge drying beds				S
	Sewage pressure control stations				S
	Other sewage disposal				S
	Solid waste disposal				S

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Refuse incineration				S
	Central garbage finding stations				S
	Composting plants				S
	Sanitary land fills				S
	Refuse disposals				S
	Industrial waste disposals				S
	Active slag dumps and mineral waste disposals				S
	Other solid waste disposal				S
	Other utilities				S
49	<b>OTHER TRANSPORTATION, COMMUNICATION AND UTILITIES</b>				S
	Other pipeline right-of-way and pressure control stations				S
	Petroleum pipeline right-of way				S
	Petroleum pressure control stations				S
	Other pipeline right-of-way and pressure control states				S
	Transportation services and arrangements				
	Freight forwarding services				C
	Packing and crafting services				C
	Travel arranging services		C	P	P
	Other transportation services and arrangements				P
	Other transportation, communication and utilities				C
51	<b>WHOLESALE TRADE</b>				
	Motor vehicles and automotive equipment				C
	Automobiles and other motor vehicles				C
	Automotive equipment-wholesale				C
	Tires and tubes				C
	Drugs, chemicals and allied products				
	Drugs, drug proprietaries and druggists' sundries				C
	Paints and varnishes				C
	Other drugs, chemicals and allied products				C
	Dry goods and apparel				P
	Dry goods, piece goods, and notions				P



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<i>Principal Uses</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
Apparel and accessories, hosiery, and lingerie				P
Footwear				P
Groceries and related products				P
Groceries (general line)				P
Dairy products				C
Poultry and poultry products				C
Confectionery				P
Fish and seafood				C
Meat and meat products				C
Fruits and vegetables (fresh)				P
Other groceries and related products				P
Farm products (raw materials)				
Cotton				C
Grain				C
Hides, skins, and raw furs				C
Leaf tobacco				C
Wool and mohair				C
Livestock				C
Horses and mules				C
Other far products				C
Electrical goods				
Electrical apparatus and equipment wiring supplies and construction material				C
Electrical appliances, television and radio sets				C
Electronic parts and equipment				C
Hardware, plumbing, heating equipment and supplies				
Hardware				C
Plumbing and heating equipment and supplies				C
Air conditioning, refrigerated equipment and supplies				C
Machinery, equipment and supplies				
Commercial and industrial machinery, equip. and supplies				C
Farm machinery and equipment				C
Professional equipment and supplies				C

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Equipment and supplies for service establishments				C
	Transportation equipment and supplies (except motor veh.)				C
	Other machinery, equipment, and supplies				C
	Other wholesale trade				C
	Metals and minerals (except petroleum products and scrap)				C
	Petroleum bulk stations and terminals				C
	Scrap and waste materials				C
	Tobacco and tobacco products				C
	Beer, wine and distilled alcoholic beverages				C
	Paper and paper products				C
	Furniture and home furnishings				C
	Lumber and construction materials				C
	Other wholesale trade				C
52	<b>RETAIL TRADE-BUILDING MATERIALS, HARDWARE AND FARM EQUIPMENT</b>				
	Lumber and other building materials				C
	Lumber yards				C
	Building materials				C
	Heating and plumbing equipment				P
	Paint, glass and wallpaper				P
	Electrical supplies				P
	Hardware and farm equipment				P
	Hardware				P
	Farm equipment				P
53	<b>RETAIL TRADE-GENERAL MERCHANDISE</b>				
	Department stores				P
	Mail order houses				P
	Limited price variety stores				P
	Merchandise vending machine operators				P
	Direct selling organizations				P
	Other retail trade-general merchandise				P
	Dry goods and general merchandise				P

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	General stores				P
54	<b>RETAIL TRADE-FOOD</b>				
	Groceries (with or without meat)		C	P	P
	Meats and fish				
	Meats			P	P
	Fish and seafood				P
	Fruits and vegetables			P	P
	Candy, nuts, and confectionery			P	P
	Dairy products			P	P
	Bakeries				
	Bakeries (manufacturing)				P
	Bakeries (nonmanufacturing)		C	P	P
	Other retail trade				C
	Egg and poultry				C
55	<b>RETAIL TRADE-AUTOMOTIVE, MARINE CRAFT, AIRCRAFT AND ACCESSORIES</b>				
	Motor vehicles				
	Motor vehicles (new and used cars)				P
	Motor vehicles (used cars only)				P
	Tires, batteries and accessories				P
	Gasoline service stations				P
	Other retail trade-automotive, marine craft, aircraft and accessories				P
	Marine craft and accessories				P
	Aircraft and accessories				P
	Other retail trade-automotive, marine craft, aircraft and accessories				P
56	<b>RETAIL TRADE-APPAREL AND ACCESSORIES</b>				
	Men's and boy's clothing and furnishings				P
	Women's ready-to wear				P
	Women's accessories and specialties				P
	Children's and infants' wear				P
	Family clothing				P
	Shoes				P
	Custom tailoring				P
	Furriers and fur apparel				P
	Other retail trade-apparel and accessories				P

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<i><b>Principal Uses</b></i>		<i><b>R-1</b></i>	<i><b>R-2</b></i>	<i><b>R-3</b></i>	<i><b>C-1</b></i>
57	<b><i>RETAIL TRADE-FURNITURE HOME FURNISHINGS AND EQUIPMENT</i></b>				
	Furniture, home furnishing and equipment				P
	Furniture				P
	Floor coverings				P
	Draperies, curtains and upholstery				P
	China, glassware and metalwork				P
	Other furniture, home furnishings and equipment				P
	Household appliances				P
	Radios, televisions and music supplies				P
	Radios, televisions				P
	Music supplies				P
58	<b><i>RETAIL TRADE-EATING AND DRINKING</i></b>				
	Eating places			C	P
	Drinking places (alcoholic beverages)			C	C
59	Other retail trade				
	Drug and proprietary		C	C	P
	Liquor			C	C
	Antiques and secondhand merchandise				C
	Book and stationery				P
	Sporting goods and bicycles				P
	Farm and garden supplies				P
	Hay, grains and feeds supplies				C
	Jewelry				P
	Fuel and ice				C
	Fuel and ice dealers (except fuel oil and bottles gas dealers)				C
	Fuel oil				C
	Bottled gas				C
	Other retail trade				
	Florists		C	C	P
	Cigars and cigarettes		C	C	P
	Newspapers and magazines		C	C	P
	Cameras and photographic supplies			C	P
	Gifts, novelties and souvenirs			C	P
	Optical goods			C	P
	Other retail trade			C	P

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<b>Principal Uses</b>		<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-1</b>
61	Finance, insurance and real estate services				
	Banking and bank-related functions				
	Banking services				P
	Bank related functions				P
	Credit services (other than banks)				
	Savings and loans associations				P
	Agricultural, business and personal credit services (including credit unions)				P
	Other credit services (other than banks)				P
	Security and commodity brokers, dealers, exchanges and services				P
	Insurance carriers, agents, brokers and services				P
	Real estate and related services				
	Real estate operators (except developers) and lessors			C	P
	Real estate agents, brokers and management			C	P
	Title abstracting			C	P
	Real estate subdividing and developing			C	P
	Real estate operative building			C	P
	Combinations of real estate, insurance, loan and law			C	P
	Other real estate and related			C	P
	Holding and investment services				P
	Other finance, insurance and real estate services				P
62	<b>PERSONAL SERVICES</b>				
	Laundering, dry cleaning and dyeing services				
	Laundering, dry cleaning and dyeing (except rugs)			C	P
	Linen supply and industrial laundry				P
	Diaper services			C	P
	Laundering and dry cleaning			C	P
	Rug cleaning and repair service				P
	Photographic services (including commercial)			C	P
	Beauty and barber services		C	C	P
	Funeral and crematory services; cemeteries				C
	Funeral			C	P
	Crematory				C
	Cemeteries		S	S	S

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Apparel repair, alteration and cleaning pickup services				
	Shoe repair service				P
	Pressing, alteration and garment repair; laundry and dry cleaning pickup			C	P
	Fur repair and storage				P
	Shoe repair, shoe shining and hat cleaning			C	P
	Other personal services			C	C
63	<b>BUSINESS SERVICES</b>				
	Advertising services				
	Advertising services (general)			C	P
	Outdoor advertising			C	P
	Other advertising			C	C
	Consumer and mercantile credit reporting services				
	Adjustment and collection services				P
	Duplicating mailing and stenographic services				P
	Direct mail advertising			C	P
	Blueprinting and photocopying			C	P
	Stenographic services and other duplicating and mailing			C	P
	Dwelling and other building services				
	Window cleaning				P
	Disinfecting and exterminating				P
	Other dwelling and building				P
	News syndicate services				P
	Employment services				P
	Warehousing and storage services				
	Farm products warehousing and storage (excluding stockyards)				C
	Stockyards				
	Refrigerated warehousing (except food lockers)				C
	Food lockers (with or without food preparation facilities)				C
	Household goods warehousing and storage				C
	General warehousing and storage				C
	Other warehousing and storage				C
	Other business services				

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Research development and testing				C
	Business and management consulting				P
	Detective and protective				C
	Equipment rental and leasing				C
	Photo-finishing				P
	Trading stamps				P
	Automobile and truck rental				P
	Motion picture distribution				C
	Other business				C
64	Repair services				
	Automobile repair and services				
	Automobile repair				P
	Automobile wash				P
	Other automobile (except repair and wash)				P
	Other repair services				
	Electrical repair (except radio and television)			C	P
	Radio and television repair			C	P
	Watch, clock and jewelry repair			C	P
	Re-upholstery and furniture repair			C	P
	Armature rewinding				P
	Other repair			C	P
65	Professional services				
	Medical and other health services				
	Physicians			P	P
	Dental		C	P	P
	Hospital	S	S	S	S
	Medical laboratory			C	P
	Dental laboratory			C	P
	Sanitariums, convalescent and rest homes		S	S	S
	Medical clinics- out-patient			C	P
	Other medical and health			C	P
	Legal services		C	P	P
	Other professional services				
	Engineering and architectural		C	P	P
	Educational and scientific research		C	P	P

Williamsburg, NM Code of Ordinances

<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Accounting, auditing and bookkeeping	C	P	P	
	Urban planning		C	P	P
	Other		C	C	C
66	<b>CONTRACT CONSTRUCTION SERVICES</b>				
	General contract construction services				P
	Building construction-general contractor				P
	Other general construction contractor				C
	Special construction trade service				
	Plumbing, heating and air conditioning				P
	Painting, paper hanging and decoration				P
	Electrical services				P
	Masonry, stonework, tile setting and plastering				P
	Carpentering and wood flooring				P
	Roofing and sheet metal				P
	Concrete				P
	Water well drilling				P
	Other special construction trade				C
67	<b>GOVERNMENTAL SERVICES</b>				
	Executive, legislative and judicial functions				P
	Protective functions and their related activities				P
	Police protection and related activities		C	C	P
	Fire protection and related activities		C	C	P
	Civil defense and related activities				P
	Postal services			C	P
	Correctional institutions			C	C
68	<b>EDUCATIONAL SERVICES</b>				
	Nursery, primary and secondary education				
	Nursery, schools		C	P	P
	Primary (elementary) schools	S	S	S	S
	Secondary schools	S	S	S	S
	University, college, jr. college, and professional education				
	Special training and schooling				
	Vocational or trade schools				P
	Business and stenographic schools			C	P
	Barber and beauty schools				P
	Arts and music schools			C	P
	Dancing schools			C	P



Williamsburg, NM Code of Ordinances

<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Driving schools				P
	Correspondence schools			C	P
	Other special training and schooling				C
69	<b>MISCELLANEOUS SERVICES</b>				
	Religious activities	S	S	S	S
	Churches, synagogues and temples		C	C	C
	Other religious activities				
	Welfare and charitable services				P
	Other miscellaneous services				
	Business associations		C	P	P
	Professional membership organizations		C	P	P
	Labor unions and similar labor organizations		C		
	Civic, social and fraternal associations		S	S	S
	Other miscellaneous services				C
71	<b>CULTURAL ACTIVITIES AND NATURE EXHIBITIONS</b>				
	Cultural activities				
	Libraries	C	P	P	P
	Museums		C	P	P
	Art galleries		C	P	P
	Other cultural activities		C	C	C
	Nature exhibitions				
	Planetaria		S	S	S
	Aquariums		S	S	S
	Botanical gardens and arboretums		S	S	S
	Zoos		S	S	S
	Other nature exhibitions		S	S	S
	Other cultural activities and nature exhibitions				
	Historic and monument sites	C	C	C	C
	Other cultural activities and nature exhibitions		C	C	C
72	<b>PUBLIC ASSEMBLY</b>				
	Entertainment assembly				
	Amphitheaters			C	P
	Motion picture theaters				P
	Drive-in movies				S
	Legitimate theaters			C	C
	Other entertainment assembly		C	C	C

Williamsburg, NM Code of Ordinances

<i><b>Principal Uses</b></i>		<i><b>R-1</b></i>	<i><b>R-2</b></i>	<i><b>R-3</b></i>	<i><b>C-1</b></i>
	Sports assembly				S
	Stadiums				S
	Arenas and field houses				S
	Race tracks				S
	Other sports assembly				S
	Public assembly, miscellaneous purposes				
	Auditoriums				C
	Exhibition halls				C
	Other miscellaneous assembly				C
73	<b><i>AMUSEMENTS</i></b>				
	Fairgrounds and amusement parks				
	Fairgrounds				S
	Amusement parks				S
	Other amusements				
	Penny arcades				C
	Miniature golf				C
	Golf driving ranges				C
	Go-cart tracks				C
	Other amusements				C
74	<b><i>RECREATIONAL ACTIVITIES</i></b>				
	Sports activities				
	Golf courses (without country club)	S	S	S	S
	Golf courses (with country club)	S	S	S	S
	Tennis courts	C	C	P	P
	Ice skating				C
	Roller skating				C
	Riding stables			C	
	Bowling				C
	Other sports activities				C
	Playgrounds and athletic areas				
	Playlots or tot lots	P	P	P	P
	Playgrounds	P	P	P	P
	Playfields or athletic fields		S	S	S
	Recreation centers (general)		C	C	
	Gymnasiums and athletic clubs				
	Swimming areas				
	Swimming pools	S	S	S	S

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	Marinas				
	Yachting clubs			C	S
	Boat rentals and boat access sties				C
	Other marinas				C
	Other recreation				
	Camping and picnicking areas				C
	Other recreation				C
75	<b>RESORTS AND GROUP COMPS</b>				
	Resorts				C
	General resorts				C
	Dude ranches				C
	Health resorts				C
	Hunting and fishing clubs				C
	Other resorts				C
	Group or organized camps				
76	<b>PARKS</b>				
	Parks-general recreation	C	P	P	P
	Parks-leisure and ornamental	P	P	P	P
	Other parks	C	C	C	C
81	<b>AGRICULTURE</b>				
	Farms (predominantly dairy products)				
	Farms and ranches (livestock other than dairy)				
	Farms and ranches (predominantly cattle)				
	Farms and ranches (predominantly hogs)				
	Farms and ranches (predominantly sheep)				
	Farms and ranches (predominantly goats)				
	Farms and ranches (other livestock)				
	Farms (Predominantly poultry)				
	Farms (general-no predominance)				
	Other agriculture and related activities				
	Range and grassland pastures (not farm or ranch)				
	Horticultural specialties				
	Apiary farms				
	Farms or ranches (predominantly horse				

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<i>Principal Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>
	raising)				
	Other agricultural and related activities				
82	<b>AGRICULTURAL RELATED ACTIVITIES</b>				
	Animal husbandry services				
	Veterinarian services				C
	Animal hospital services				C
	Poultry hatchery services				C
	Other animal husbandry services				C
	Other agricultural related activities				
	Horticulture services				C
	Other agricultural related activities				C
83	<b>FORESTRY ACTIVITIES AND RELATED SERVICES</b>				
	Forestry services				S
	Forest nurseries				C
	Other forestry services				C
	Other forestry activities and related services				S
84	<b>FISHING ACTIVITIES AND RELATED SERVICES</b>				C
85	<b>MINING ACTIVITIES AND RELATED SERVICES</b>				
	Metal ore mining				
	Mining and quarrying of non-metallic minerals (except fuel)				
	Crushed and broken stone (including riprap)				
	Sand and gravel				
	Clay, ceramic and refractory minerals-mining				
	Chemical and fertilizers (mineral)-mining				
	Other mining and quarrying of non-metallic minerals (except fuels)				
	Mining services				
	Metal mining-services				
	Non-metallic mining (except fuel)-services				
	Other mining services				

(Ord.77, passed 3-8-1984)

## TABLE OF SPECIAL ORDINANCES

Table

### I. ANNEXATIONS

### II. FRANCHISE AGREEMENTS

### III. STREET NAME CHANGES AND THE

LIKE

## TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
28	6-22-1971	Approving the annexation of contiguous territory to the village.
50	1-28-1976	Annexing the Howe Additions to the village.
74	8-11-1983	Annexing certain properties to the village, starting where the East boundary of Val Verde Avenue intersects U.S. Hwy No. 85.
28A1	2-9-1984	Amending the property description on Ord. 28 dated 6-22-1971 (typographical).
85	1-14-1988	Petition to annex a tract of land located in the county.
90	9-14-1989	Petition to annex two tracts of land located in Sierra County.

## TABLE II: FRANCHISE AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
14	2-24-1970	Granting rights to establish and operate wells, works, systems, plants, pipes and all related facilities to sell, pump, store, distribute, convey or otherwise conduct, serve, supply and furnish inhabitants of the village.
4	7-15-1965	Granting to Southern Union Gas Company to construct, operate and maintain in the village works, systems and plants for the handling, production, manufacturing, transporting, storing, sale and distribution of gas into, out of and through the municipality.

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<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>	<b><i>Description</i></b>
7	2-10-1969	Granting rights to construct and operate an electric power distribution system and street lighting system.
22	1-12-1971	Granting to Western States Telephone Company to erect, maintain and operate a telephone system in the village to erect, maintain and operate its wires, underground conduits, lines, poles, arms, appurtenances and fixtures for conducting a telephone business.
33	1-29-1972	Pledging the gasoline tax receipts of the village to secure the payment of the lease or lease with option to purchase between the village and the Banes Company, Inc.
34	5-3-1972	Pledging the gasoline tax receipts of the village to secure the payment of the lease or lease with option to purchase between the village and the Banes Company, Inc.
40	11-7-1973	Granting a franchise to Leacom, Inc. to construct, operate and maintain a cable television system.
40-A	12-11-1974	Concerning the transfer of franchise rights contained in Village Ord. 40 from Leacom, Inc. to Cable TV of New Mexico, Inc.
40-2	8-21-1978	Amendment 2 to amend and to be included as part of Ord. 40 granting a franchise to construct, operate and maintain a cable television system.
63	2-12-1981	Granting to Continental Telephone Company a franchise to erect, maintain and operate its wires, underground conduits, lines, poles, arms, appurtenances and fixtures for conducting a telephone business and exchange.
80	1-8-1987	Granting to Scott Cable Communications, Inc., to operate and maintain a cable television communications system in the village.
81	1-8-1987	Granting to Gas Company of New Mexico, certain powers, licenses, rights-of-way, privileges and franchise to construct, operate and maintain in the village works, systems and plants for the handling, production, manufacturing, transporting, storing, sale and distribution of gas into, out of and through the municipality.
80-03	9-11-2003	Granting to Interlink Communications Partners, LLC, to own and operate and maintain a cable system in the village.
111	3-13-2008	Granting Valor Telecommunications of Texas, LP, the non-exclusive franchise, license, right and privilege to construct, erect, operate and maintain its telecommunications business.

## TABLE III: STREET NAME CHANGES AND THE LIKE

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
15	3-10-1970	Renaming Highway 85 (Interurban Highway) to Broadway.
64	3-12-1981	Designating the alley between Broadway and Sunset Street as Powey Lane.

## PARALLEL REFERENCES

References to New Mexico Statutes Annotated

References to Ordinances

## REFERENCES TO NEW MEXICO STATUTES ANNOTATED

<i>NMSA Cites</i>	<i>Code Section</i>
3-17-1	10.99, 150.99
3-17-6	70.01
3-18-3A(3)	92.032
3-36-1 – 3-36-7	51.10
3-38-1	110.01, 110.02
3-38-3	110.02
3-38-13 <i>et seq.</i>	110.03
3-48-1 – 3-48-7	50.11
5-10-1 – 5-10-13	153.02
7-1-1 <i>et seq.</i>	31.02
7-1-6.4	31.02
7-1-6.4(C)	31.01, 31.03
7-1-12(C)	31.02
7-1-1 – 7-1-82	31.02
7-9-1 <i>et seq.</i>	31.01 – 31.03
7-9-44	31.02
7-16A	31.02
7-16A-2	31.02
7-16A-4	31.02
7-16A-15.1	31.02
7-19-1 – 7-19-18	31.02
7-19-10 – 7-19-18	31.01, 31.02
7-20-1 – 7-20-26	31.02

<i>NMSA Cites</i>	<i>Code Section</i>
7-21-1 – 7-21-7	31.02
7-24-1	110.04
7-31-1 <i>et seq.</i>	31.02
10-7C-1 – 10-7C-19	30.02
10-15-1 <i>et seq.</i>	30.01
12-10-5	32.01
12-10-7	32.04
14-20-1 – 14-20-24	154.02
30-18-1	92.005
30-36-1 – 30-36-9	130.065
31-19-1	92.085
35-14-1	30.20
40A-9-1 – 40A-9-1	130.111
46-1-1	130.092
Ch. 60, Art. 2C	90.020
60-1A-1 <i>et seq.</i>	31.02
60-2C-7	90.022
60-7A-1E	110.04
60-14-1 <i>et seq.</i>	154.43
64-1-8	31.02
66-1-1 <i>et seq.</i>	31.02
66-8-101 – 66-8-141	70.01
72-13-26(A)	31.02
72-16A-27	31.02
77-1A-1 <i>et seq.</i>	92.085
77-1-3	92.003, 92.050
77-1-5	92.003
77-1-6	92.052
77-1-10	92.082
77-1-12	92.080
77-1-15.1	92.065
77-1-15.1B	92.030
77-18-1	92.007

## REFERENCES TO ORDINANCES

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
4	7-15-1965	TSO Table II
7	2-10-1969	TSO Table II
14	2-24-1970	TSO Table II
15	3-10-1970	TSO Table III



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<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>	<i><b>Code Section</b></i>
16	4-14-1970	90.080 – 90.092, 90.999
-	10-14-1970	52.09
22	1-12-1971	TSO Table II
28	6-22-1971	TSO Table I
30	8-10-1971	30.20 – 30.26
31	8-10-1971	90.003, 90.999
33	1-29-1972	TSO Table II
34	5-3-1972	TSO Table II
35	9-26-1972	30.40 – 30.50, 30.99
37	3-28-1973	90.002, 90.999
40	11-7-1973	TSO Table II
101	7-14-1974	31.01
40-A	12-11-1974	TSO Table II
45	1-8-1975	52.01 – 52.08, 52.99
47	1-14-1976	90.060 – 90.067, 90.999
50	1-28-1976	TSO Table I
56	11-10-1977	150.99
58	5-3-1978	51.25 – 51.28, 51.99
60	7-13-1978	31.02
40-2	8-21-1978	TSO Table II
62	11-13-1980	150.02, 150.99
63	2-12-1981	TSO Table II
-	11-12-1981	30.20 – 30.26
71	11-12-1981	110.04
72-1981/82	6-14-1982	51.01 – 51.12, 51.99
74	8-11-1983	TSO Table I
28A1	2-9-1984	TSO Table I
-	2-9-1984	30.22
77	3-8-1984	154.01 – 154.06, 154.20 – 154.24, 154.40 – 154.44
78	4-12-1984	151.01 – 151.12, 151.99
79	5-10-1984	32.01 – 32.04
-	4-11-1985	51.08, 51.09
80	1-8-1987	TSO Table II
81	1-8-1987	TSO Table II
82	2-12-1987	152.01 – 152.12, 152.30 – 152.32, 152.45 – 152.48
64	3-12-1987	TSO Table III
84	8-13-1987	10.99
85	1-14-1988	TSO Table I
86	5-12-1988	110.02
87	5-12-1988	110.01
89	10-13-1988	150.20 – 150.29, 150.99
90	9-14-1989	TSO Table I
93	10-12-1989	10.99
94	10-12-1989	10.99
95	5-10-1990	30.02

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	- -1990	150.02
97	- -	130.042
48	12-13-1990	130.001 – 130.005, 130.020 – 130.043, 130.060 – 130.071, 130.090 – 130.094, 130.110 – 130.116, 130.999
97	12-13-1990	90.040 – 90.043, 90.999
-	3-14-1991	110.01
98	3-14-1991	31.03
99	3-14-1991	110.03
103	12-14-1995	150.03, 150.99
56	11-10-1997	150.01
-	4-8-1999	110.01
-	10-14-1999	90.061
107	3-9-2000	30.01, 30.99
108	2-8-2001	90.001, 90.999
204	5-20-2003	10.05
80-03	9-11-2003	TSO Table II
88	4-8-2004	91.01 – 91.14
96.	6-10-2004	70.01
106	1-13-2005	90.020 – 90.028, 90.999
61	2-10-2005	50.01 – 50.12, 50.99
92	5-12-2005	70.99
110	2-14-2008	153.01 – 153.12
111	3-13-2008	TSO Table II
73-2003	7-9-2009	10.99, 30.26