

## Chapter 130

### ZONING

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**[HISTORY: Adopted by the Board of Trustees of the Village of Jemez Springs 8-12-2015 by Ord. No. 188.<sup>1</sup> Amendments noted where applicable.]**

GENERAL REFERENCES

Animals and fowl — See Ch. 14.

Business registration and licensing — See Ch. 20.

Flood damage prevention — See Ch. 29.

Outdoor lighting — See Ch. 51.

Planning and Zoning Commission — See Ch. 80.

Streets and sidewalks — See Ch. 94.

Wireless telecommunications facilities — See Ch. 123.

ARTICLE I  
General Provisions

**§ 130-1. Title.**

These regulations shall be known as the "Comprehensive Zoning Ordinance of the Village of Jemez Springs."

**§ 130-2. Purpose.**

The provisions of this chapter are intended to help achieve the goals for wise growth management within the Village and are intended to be in accordance with the Village Comprehensive Plan. Its purpose is to promote the health, safety, and general welfare of the residents of the Village by controlling the use of land so that it is developed in harmony with existing uses. The regulations in this chapter are necessary to:<sup>2</sup>

- A. Insure compliance with the Village Comprehensive Plan;
- B. Promote the most appropriate use of land throughout the Village;
- C. Provide adequate light and air;
- D. Minimize congestion on the streets and public ways;
- E. Secure safety from fire, panic and other dangers;
- F. Avoid undue concentrations of population;
- G. Prevent the overcrowding of land;
- H. Facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements;
- I. Conserve the value of buildings and land; and
- J. Maintain the rural character of the Village.

1. Editor's Note: This ordinance superseded former Ch. 130, Zoning, adopted 7-10-2013 by Ord. No. 179, as amended.

2. Editor's Note: The regulations in this chapter were adopted pursuant to NMSA 1978, §§ 3-21-1 and 3-21-2.

**§ 130-3. Jurisdiction.**

This chapter shall apply to all lands within the municipal boundary of the Village, including such lands as may be subsequently annexed to the Village. This chapter governs all real property located within the zoning jurisdiction of the Village. Boundaries delineating the zoning jurisdiction of the Village shall be as indicated on the Official Zone Map of the Village.

**§ 130-4. Interpretation.**

Where due to the scale, lack of detail, or illegibility of the official Jemez Springs Zoning Map, there is any uncertainty, contradiction, or conflict as to the intended location of any zone district boundaries shown therein, interpretations concerning the exact location of zone district boundary lines shall be determined by the Village Council with the advice of the Planning and Zoning Commission.

**ARTICLE II  
Definitions****§ 130-5. Terms defined.**

For the purpose of this chapter, certain terms, words, or phrases used herein shall be interpreted as follows. The words "shall" and "must" are mandatory; the word "may" is permissive.

**ACCESSORY** — Subordinate and incidental to a principal use or structure on the same premises.

**ACCESSORY BUILDING** — A building, subordinate to and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.

**ACCESSORY DWELLING UNIT (ADU)** — An ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure or on the same lot as the primary dwelling unit. Accessory dwelling units are also known as accessory apartments, garage apartments, granny flats, or mother-in-law flats.

**ADULT ENTERTAINMENT** — Any commercial use which has as a substantial or significant portion of its stock in trade books, magazines, periodicals, films, or movies and which excludes minors by reason of age.

**ALTERNATIVE ENERGY** — Energy generated in ways that do not deplete natural resources or harm the environment.

**BED-AND-BREAKFAST** — A small lodging establishment that offers overnight accommodations and breakfast. A property is considered to be a bed-and-breakfast if it has at least two spaces for rent.

**BUILDING** — A structure having a roof supported by columns or walls for the shelter, support, or enclosures of persons, animals, or personal property.

**BUILDING HEIGHT** — The vertical distance from the finished grade to the highest point of the roof.

**CONDITIONAL USE** — A use which, because of public convenience and necessity and its effect upon the neighborhood, shall be permitted only upon the approval of the Planning and Zoning Commission after due notice and public hearing and a finding that it will not be detrimental to the Comprehensive Plan or to adjacent and surrounding property. The conditional uses allowed in each zoning district are different for each zone.

**DWELLING** — A building or portion thereof designed or used exclusively for residential occupancy, including single-family, two-family and multiple-family dwellings, but not including hotels, boardinghouses and lodging houses.

**DWELLING, MULTIFAMILY** — A structure designed or modified to contain two or more dwelling units.

**DWELLING, SINGLE-FAMILY** — A detached structure containing one dwelling unit.

**FLOOR AREA** — The total gross area of all floors of a building.

**GEOHERMAL ENERGY SYSTEM** — An energy conversion system, including appurtenances, which converts stored thermal energy from the earth to a usable form of energy to meet all or part of the energy requirements of the on-site user in the form of either heat or electricity.

**GRADE** — The average of the finished ground levels at the center of all walls of a building.

**HOME OCCUPATION** — An occupation conducted in a dwelling unit.

**LOT** — An individual parcel of land which may be described by metes and bounds and is placed on record in accordance with state law.

**LOT AREA** — The aggregate land area measured to property lines.

**LOT DEPTH** — The average distance between the front and rear property lines measured in the mean direction of the side property lines.

**LOT OF RECORD** — An individual parcel of land which has been recorded in the office of the County Clerk prior to the effective day of this chapter or subsequent amendments.

**LOT WIDTH** — The average distance between the side property lines measured parallel to the front property lines.

**MANUFACTURED HOUSING** — A multisectional mobile home dwelling manufactured after June 15, 1976, to standards established by the U.S. Department of Housing and Urban Development which has external dimensions of at least 24 feet by 40 feet and is installed on a permanent foundation. A manufactured housing unit is considered equivalent to a single-family dwelling. A wall shall be installed continuously, except for ventilation and access, along the entire perimeter of the unit between the unit and the ground to give it the

appearance of a site-built house. The wall shall be of masonry construction or similar material. The tongue, axles, transporting lights, and towing apparatus shall be removed before occupancy.

**MECHANICAL EQUIPMENT** — Any device associated with a solar energy system, wind energy system, or geothermal energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.

**MIXED-USE** — Allowing more than one type of use in a building or set of buildings.

**MOBILE HOME** — A transportable, factory-built home designed and intended to be used as a year-round dwelling, and built prior to the enactment of the Federal Manufactured Housing and Safety Standards Act of 1974.

**MOBILE HOME PARK** — Any parcel of land upon which two or more mobile homes occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

**MOBILE HOME SPACE** — A plot of ground within a mobile home park or travel trailer park designed for the accommodation of one mobile home or travel trailer together with its accessory structures, including carports or other off-street parking areas, storage lockers, ramadas, cabanas, patios, patio covers, awnings and similar appurtenances.

**MODULAR DWELLING** — A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site in a modular structure on a permanent foundation. The term is intended to apply to major assemblies which must conform to the local building code.

**MOTEL** — A roadside hotel designed primarily for motorists, typically having the rooms arranged in low blocks with parking directly outside.

**MULTIFAMILY** — A classification of housing where multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex. A common form is an apartment building.

**MULTIGENERATIONAL FAMILY** — A family households consisting of three or more generations.

**NONCONFORMING USES, LOTS, STRUCTURES** — Any building structure, or portion thereof, or use of any building or land, which does not conform to these regulations and which lawfully existed on the effective date of these regulations with which it does not conform.

**PERSON** — A firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**PLANNING COMMISSION** — The Planning and Zoning Commission of the Village.

**PREMISES** — Any lot held in single ownership, together with all development thereon.

**PROPERTY LINE, FRONT** — The boundary of a lot bordering on a street or public right-of-way.

PROPERTY LINE, REAR — The boundary of a lot opposite and most distant from, but not adjoining, the front property line.

PROPERTY LINE, SIDE — Any boundary which is not a front property line or a rear property line.

RECREATION VEHICLE — A vehicular or portable unit mounted on a chassis and wheels, designed and constructed to be installed with or without a permanent foundation for human occupancy as a residence, not more than 12 feet in width, nor more than 40 feet in length, and containing no more than 400 square feet in total floor area. Total width of said unit, including all tip-outs, slide-outs, hinged extensions, or solid frames, shall not exceed 12 feet. For purposes of measuring length, the recreation vehicle hitch and/or tongue shall be excluded. The term "recreation vehicle" shall include travel trailers, camping trailers, truck campers, and motor homes.

RECREATION VEHICLE, DESTINATION — A recreation vehicle which is designed for, and is to be used for, permanent residential use in a travel trailer/recreation vehicle park or at other approved locations. The term "recreation vehicle (destination)" includes park model travel trailers.

RECREATION VEHICLE, OVERNIGHT — A recreation vehicle which is not designed for, or to be used for, permanent residential use in a travel trailer/recreation vehicle park or at other approved locations.

RENEWABLE ENERGY SYSTEM — A solar energy system, wind energy system, solar farm, or wind farm.

RETAIL — The sale of goods to the public in relatively small quantities for use or consumption rather than for resale.

RETAIL BUSINESS — A property planned and developed as a means to promote the sale of goods to the public in relatively small quantities for use or consumption.

SETBACK — The minimum distance allowed between a lot line or the center line of a street right-of-way and the foundation of any building on the lot; provided, however, that eaves, decks, porches, bay windows, chimneys or other architectural elements may project no more than two feet in any required yard except in instances where such projection would be over or on an easement, which is not allowed; and provided further that structures and improvements associated with utilities or roads dependent on location on or near a road right-of-way shall be allowed without meeting the setback standards of this chapter.

SETBACK, FRONT — The minimum allowable distance between any main building and the front property line of the lot on which such building is situated.

SETBACK, REAR — The minimum allowable distance between any main building and the rear property line of the lot on which such building is situated.

SETBACK, SIDE — The minimum allowable distance between any main building and a side property line of the lot on which such building is situated.

**SIGN** — A device intended to direct or attract persons not on the premises on which the sign is located.

**SOLAR ACCESS** — A property owner's right to have sunlight shine on the owner's land.

**SOLAR ENERGY SYSTEM** — An energy conversion system, including appurtenances, which converts solar energy to a usable form of energy to meet all or part of the energy requirements of the on-site user. This definition shall include the terms "passive solar" and "active solar" systems.

**SOLAR ENERGY SYSTEM, UTILITY SCALE** — Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy primarily for use off site.

**SOLAR GLARE** — The effect produced by light reflecting from a solar panel with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**STRUCTURE** —

- A. Anything manufactured or constructed by humans, as opposed to that occurring in nature, which is affixed, anchored, or otherwise attached to or below the surface of the ground.
- B. Anything manufactured or constructed by humans, as opposed to that occurring in nature, which is attached to something having been affixed, anchored or otherwise attached to or below the surface of the ground.

**STRUCTURE, ACCESSORY** — A structure which is subordinate to, and the use of which is incidental to, that of the principal building, structure or use on the same lot.

**TRAVEL TRAILER COURT OR CAMPGROUND** — Any parcel of land licensed and used for the transient commercial parking of occupied travel trailers, mobile homes, pickup campers, converted buses, recreational vehicles, tents, or similar devices used for temporary portable housing.

**USE** — The purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

**USE, ACCESSORY** — A use which is customarily incidental and subordinate to the principal use of a lot or a building, including bona fide servant quarters, or accessory vehicle parking or storage and located on the same lot therewith.

**USE, PRINCIPAL** — The main use of land or a building as distinguished from an accessory use.

**VARIANCE** — A relaxation of the terms of this chapter where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this chapter would result in unnecessary hardship.

WIND ENERGY SYSTEM — A private, noncommercial wind energy conversion system designed to reduce on-site consumption of utility power consisting of a wind turbine, a tower, and associated controls with a rated capacity of 20 kilowatts (kW) or less.

WIND ENERGY SYSTEM, UTILITY SCALE — One or more wind turbines, each with a rated capacity of 20 kilowatts (kW) or more, developed for the sole purpose of generating electricity for off-site consumption distributed through the electrical grid.

### ARTICLE III General Requirements

#### § 130-6. Land use.

All property within the Village is governed according to the zone in which it is located. Any use not designated a permissive or conditional use is prohibited from that zone, except as otherwise provided herein.

#### § 130-7. Access to structures.

All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and any required off-street parking or loading.

#### § 130-8. Building height.

All development within the boundaries of Jemez Springs shall not exceed a height of 26 feet. If building on a slope, please reference the slope building height determination supplement available from the Village Clerk.

#### § 130-9. Accessory building height.

All accessory building development within the boundaries of Jemez Springs shall not exceed a height of 26 feet. If building on a slope, please reference the slope building height determination supplement available from the Village Clerk.

#### § 130-10. Accessory dwelling unit height.

All accessory dwelling unit development within the boundaries of Jemez Springs shall not exceed a height of 26 feet. If building on a slope, please reference the slope building height determination supplement available from the Village Clerk.

#### § 130-11. Exceptions to height regulations.

Building height limitations imposed by this chapter shall not apply to silos, chimneys, cooling towers, water tanks, windmills, flagpoles, antennas, spires, and other such accessory objects, excluding signs, usually placed above the roof level and not intended for human occupancy.



VILLAGE OF JEMEZ SPRINGS  
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PAMELA GRIDER  
Mayor Pro-Tem



MANOLITO SANCHEZ  
Trustee  
DAVID RYAN  
Trustee  
ROGER SWEET  
Trustee

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Ordinance No. 199

**Recreational Vehicles:** An Ordinance amending Ordinance 98 (Reference also the General Code of the Village of Jemez Springs § 130-14) to clarify limits on campers, trailers, tents, buses, RV's, etc. being occupied as living quarters and to provide for procedures for reasonable exceptions to these limits.

**Delete:** consecutive days

**Add:** days per calendar year for each premises.

**Add:** Reasonable exceptions may be made upon application to the Planning & Zoning Commission.

**Be it ordained by the governing body of the Village of Jemez Springs, State of New Mexico that:**

The limit on car campers, camper trailers, tents, buses, motor homes, etcetera occupied as living quarters is 14 days per calendar year for each premises. Reasonable exceptions may be made with an application and permission from the Planning and Zoning Commission.

PASSED, ADOPTED AND APPROVED THIS 19 DAY OF  
April, 2017

APPROVED:

Robert Wilson, Mayor

(seal)

ATTEST:

  
Yvonne Dickey, Village Clerk/Treasurer

**§ 130-12. Mobile home installation.**

Refer to the installation requirements outlined in New Mexico Administrative Code (NMAC), Title 14, Housing and Construction, Chapter 12, Manufactured Housing, Part 5, Installation Requirements.

**§ 130-13. Refuse disposal.**

All persons owning or occupying lands within the Village shall be responsible for the sanitary conditions of their premises. No person shall permit or cause the accumulation of refuse or solid waste which may become hazardous to public health or safety or which obstructs traffic, drainage, or access to structures.

**§ 130-14. Recreational vehicles.**

The limit on car campers, camper trailers, tents, buses, motor homes, etc., occupied as living quarters is 14 consecutive days.

**§ 130-15. Floodplain determination.**

All proposed development within the Village of Jemez Springs must follow the requirements set forth in § 130-22, Flood Hazard Overlay District. A determination by the Sandoval County Certified Floodplain Manager must be made prior to any determination from the Village of Jemez Springs Planning and Zoning Commission.

ARTICLE IV  
**Establishment of Districts**

**§ 130-16. Zones established.**

In order to carry out the provisions of this chapter, the following zones are established:

- RDD                 Rural Development District
- VCD                 Village Center District
- NRD                Neighborhood Residential District
- FHOD               Flood Hazard Overlay District
- SSOD               Steep Slope Overlay District

**§ 130-17. Zone Map.**

The zones and boundaries of zones are shown on the map entitled "Jemez Springs Zone Map," which is hereby adopted and made a part of this chapter as if fully described herein. The Zone Map shall be maintained by the Planning Commission and shall be available for public reference at the Village office.

**§ 130-18. Annexation.**

Any request or proposal for annexation of territory to the Village of Jemez Springs shall be filed and processed concurrently with an application for an amendment to the Jemez Springs Zoning Map as provided in this chapter. Zoning within annexed areas must be consistent with contiguous zoning, or must be in accordance with the Comprehensive Plan of the Village of Jemez Springs.

- A. Three methods of annexation. There are three methods of annexing territory:
- (1) Arbitration method. The arbitration method may be used by the governing body to annex contiguous territory as authorized by NMSA 1978, §§ 3-7-5 through 3-7-10.
  - (2) Municipal Boundary Commission method. The Municipal Boundary Commission method may be used by the governing body, or by a majority of landowners of the territory proposed to be annexed, upon petition to the Municipal Boundary Commission as authorized by NMSA 1978, §§ 3-7-11 through 3-7-16.
  - (3) Petition method. The petition method may be used by a majority of landowners of the territory proposed to be annexed, and the petition must be presented to the governing body for approval or rejection as authorized by NMSA 1978, § 3-7-17.
- B. Zoning designation for newly annexed parcels. All newly annexed parcels shall be considered to be in the Rural Development District (RDD) unless otherwise classified by rezoning.
- C. Procedures.
- (1) Application and required information.
    - (a) Annexation petitions by landowners.
      - [1] All annexation requests by petition of the landowners shall be accompanied by a letter of application, a plat of the area proposed to be annexed, a site plan or a concurrent rezoning application, or both, for the area proposed to be annexed, a proposed annexation agreement and other supporting materials required by the Planning and Zoning Commission, and shall meet all other requirements of NMSA 1978, § 3-7-11. When the Village is the petitioning landowner, a map showing the Village-owned land to be annexed may be submitted in lieu of a plat.
      - [2] In the case of an annexation request by petition of landowners brought by Municipal Boundary Commission method, the petition must conform to the requirements listed in Subsection C(1)(a)[1] above as well as those set forth in NMSA 1978, § 3-7-13.
    - (b) Annexation requests initiated by governing body. When an annexation is initiated by the governing body under the arbitration or Municipal Boundary Commission methods, the governing body shall provide the information required by NMSA 1978, §§ 3-7-5 and 3-7-13, respectively. In addition, the following shall apply:

- [1] When annexation is initiated to consolidate Village boundaries or services, a plan demonstrating how such consolidation will take place shall be provided; and
  - [2] When annexation is proposed for purposes other than consolidation of Village boundaries or services, a site plan shall be provided.
- (2) Planning and Zoning Commission recommendation.
    - (a) All proposed petition-method annexations shall be submitted to the Planning and Zoning Commission for review and recommendation at a public hearing based on the approval criteria set forth in § 130-18D. In the course of the review, the Planning and Zoning Commission shall make complete findings of fact on all applications. The Planning and Zoning Commission shall not rule on the economic feasibility of any development proposed in an annexation master plan.
    - (b) The Planning and Zoning Commission shall transmit the application to the governing body, together with a recommendation based on the criteria in § 130-18D as to approval, disapproval, desirable changes and special conditions and safeguards.
    - (c) If the Planning and Zoning Commission does not act on a request for annexation application review within 90 days after submission, the applicant may request review of the proposed annexation by the governing body.
  - (3) Governing body decision.
    - (a) Before taking action on any proposed petition-method annexation, the governing body shall hold a public hearing. After reviewing the Planning and Zoning Commission's report, if any, the recommendation of the Planning Commission and any evidence obtained at the hearing, the governing body shall take final action to approve, approve with conditions or deny the proposed annexation.
    - (b) When a proposed petition-method annexation has failed to receive the recommended approval of the Planning and Zoning Commission, the annexation shall not be approved by the governing body except by a majority vote of all the members of the governing body.
  - (4) Notifications.
    - (a) The Village shall submit each annexation petition to the Board of County Commissioners as required by NMSA 1978, § 3-7-17.1.
    - (b) The Village shall notify the school board about the public hearing date for all petition-method annexations over 25 acres at least 15 days in advance of the hearing.
    - (c) The Village shall notify the County Land Use Department of all annexations approved by the Village.

- (5) Resubmission of annexation applications. Once an application for an annexation has been denied by the governing body after public hearing, a like or similar application for the same property shall not be filed within 12 months from the date of denial by the governing body, unless the applicant can establish before the Planning Commission that there has been a substantial change in conditions and circumstances surrounding the request that would warrant a reconsideration of the matter.
  - (6) Protest petitions. If the owners of 20% or more of the land included in the area, or within 100 feet, excluding public rights-of-way, of the area proposed to be changed by an annexation protest in writing, the proposed petition method of annexation shall not become effective unless it is approved by a majority vote of all the members of the governing body.
- D. Approval criteria. The Planning and Zoning Commission and the governing body shall review all petition-method annexation proposals on the basis of the following criteria. The reviewing entities must make complete findings of fact sufficient to show that the criteria provided in this section have been met before recommending or approving any annexation:
- (1) The proposed annexation is within the urban area boundary;
  - (2) Generally, the area to be annexed provides a consolidation of Village boundaries and service areas; provided that allowance shall be made for those properties that are prohibited from annexation by charter or other legal instrument, and provided further that in all cases the proposed annexation must be contiguous with existing Village boundaries;
  - (3) Generally, a proposed development should not impose an economic burden on citizens or result in an indirect subsidy of services by the Village. Specifically, evidence shall be provided by the applicant that the existing infrastructure; public facilities, including fire stations and parks; and operating services, such as ongoing garbage collection, police and fire, can accommodate the impacts of the proposed development.
  - (4) The amount of and proposed use for the land to be annexed is consistent with the Village's policies regarding the provision of land sufficient to meet the amount, rate and geologic location of growth of the Village. It is recognized that the Village does not have an obligation to annex land if it is determined as a matter of Village policy that the inventory of land, by land use category, is adequate to meet the projected absorption rates of the Village for housing and other purposes for a specified number of years as set forth in that policy; and
  - (5) All annexation requests are for areas of no fewer than 25 acres unless the area produces a consolidation of Village boundaries or services or is within the confines in the Comprehensive Plan.
- E. Additional applicant requirements.

- (1) If the accommodation of the impacts of development cannot be demonstrated to the Village's satisfaction as to the assumptions, methodology and data:
  - (a) The applicant and the Village shall negotiate to offset the increased infrastructure, public facilities or operating costs to the Village due to the proposed development; or
  - (b) The Village shall deny the annexation.
- (2) When the annexed area creates a need for additional major public infrastructure expansion, the applicant may be required to contribute a proportional fair share of the cost of expansions.

F. Annexation agreements.

- (1) For all landowner petition-method annexations, an annexation agreement shall be entered into between the Village and the applicant.
- (2) The annexation agreement shall be recommended by the Planning and Zoning Commission to the governing body and adopted by the governing body as part of the ordinance setting forth the boundaries of the annexed area.
- (3) The agreement shall include, as appropriate:
  - (a) A list of property owners;
  - (b) Reference to the way in which the annexation is in conformance with the general plan;
  - (c) Provision for necessary off-site facilities;
  - (d) Designation of land uses;
  - (e) A phasing and staging plan;
  - (f) Land to be dedicated to the Village;
  - (g) Impact fees;
  - (h) Provision of Village services, including fire and police protection, wastewater collection and sewer services, refuse disposal and street and road improvements;
  - (i) Site design;
  - (j) Archaeological site protection;
  - (k) Provision of parks and open space and other items as agreed to by the Village and the applicant; and
  - (l) The provision of water, consistent with adopted policies of the Village, shall be addressed.

- (4) A revised annexation agreement must be approved if the master plan approved as part of the annexation application becomes invalid and a new master plan is approved.

**§ 130-19. Rural Development District.**

- A. Intent. This district is intended to protect and preserve areas of Jemez Springs which are presently rural or agricultural in character and use as well as to recognize the desirability to carry on limited agriculture activities. (Note: The most important factor is that the regulations permit a present use of land that will not prematurely preempt more appropriate uses in the future.) The district serves to encourage the orderly transition of land from agricultural to low-density residential uses and prohibits any uses incompatible with this objective.
- B. Setbacks, lot size and open space requirements.
  - (1) Minimum lot size for this district shall be one acre.
  - (2) Development shall be connected to the Village water and wastewater systems, where available.
  - (3) There shall be adequate stormwater retention in place.
  - (4) There shall be a front setback of 10 feet on all lots regardless of development type.
  - (5) There shall be a side setback of 10 feet on all lots regardless of development type.
  - (6) There shall be a minimum rear setback of 10 feet on all lots regardless of development type.
  - (7) All development within the district shall be subject to floodplain regulations. See § 130-22, Flood Hazard Overlay District.
  - (8) An accessory building shall not be placed within any side or rear setback area except when the lot line borders a vehicle-accessible irrigation ditch, roadway or utility easement, in which case the accessory building may be placed on the lot line. Any accessory building shall be subject to floodplain regulations, and if the total area is greater than 200 square feet, the structure shall require a building permit.
  - (9) All lots within this district shall be a minimum of 60% open space. The purpose of open space requirements is to protect and preserve the established low-density rural character of the Rural Development District of the Village, to secure a low density of future residential development, and to minimize impervious surfaces which increase stormwater runoff that may result in increased flooding and water pollution. Open space shall be unoccupied by structures and not contain any impervious surfaces as defined by this chapter.
- C. Permissive uses. Any of the following permissive uses are allowed in this zone:

- (1) Accessory uses and structures.
  - (2) Agricultural activities. Agricultural activities include the cultivation, harvesting, selling of produce and the raising and management of livestock and fowl. The raising and management of livestock and fowl must follow the regulations outlined in Chapter 14, Animals and Fowl.
  - (3) One single-family dwelling per lot. Residential uses include all single-family detached dwelling units in subdivisions built or subdivided prior to enactment of this chapter and all single-family detached dwelling units in subdivisions subdivided after enactment of this chapter which are developed to the standards for conventional subdivisions required by this chapter.
  - (4) Manufactured home, provided it meets current installation requirements outlined in § 130-12 of this chapter.
  - (5) Mobile home, provided it meets current installation requirements outlined in § 130-12 of this chapter.
- D. Conditional uses. Conditional uses shall be permanent or renewable as outlined in this chapter. The following uses shall be allowed in this zone district only upon permit granted by the Planning and Zoning Commission:
- (1) Accessory dwelling units (ADUs). The maximum size of any ADU in this district is 1,000 square feet, regardless of the primary structure size.
  - (2) Outdoor recreational. Outdoor recreational uses include areas for recreation activities, including, but not limited to, campgrounds, golf courses, and ball fields.
  - (3) Commercial. Commercial uses are permitted, provided that they front and have direct access to New Mexico Highway 4. Any of the following commercial uses are allowed in this district:
    - (a) Banking and financial services.
    - (b) Business and personal services.
    - (c) Commercial kennel, veterinary clinic, and animal grooming, provided that:
      - [1] All animals shall be retained in a manner that prevents escape of enclosed animals or entry of other animals.
      - [2] Animal quarters shall be designed to ensure safe, healthy, sanitary conditions for animals on premises.
      - [3] Animal quarters shall be maintained to discourage concentration and breeding of insects and rodents.
      - [4] Surface water discharge contamination shall be retained on site.
      - [5] Animal waste shall not be allowed to accumulate in amounts that offend or cause a noxious odor.



- [6] Temporary on-site storage of animal waste shall be designed to prevent groundwater or surface water contamination.
  - [7] A solid fence to provide a visual barrier, at least six feet and no more than eight feet high, shall be erected and maintained between the activity and all contiguous residential areas.
- (d) Galleries and museums.
  - (e) Gas stations and other retailers of bulk petroleum products, provided that there shall be:
    - [1] Dry cleanup of spilled gas and other petroleum products.
    - [2] A spill-prevention countermeasure control plan as regulated by the EPA and NMED.
  - (f) Retail business establishment.
- (4) Religious institutions.
  - (5) Bed-and-breakfasts in accordance with § 130-24 of this chapter.
  - (6) Home occupations in accordance with § 130-25 of this chapter.
  - (7) Alternative energy system, provided it meets all requirements outlined in § 130-30 of this chapter.

**§ 130-20. Village Center District.**

- A. Intent. The intent of this district is to provide for those commercial uses which serve the community on a day-to-day basis, including retailing, financial, and personal services.
- B. Setbacks, lot size, and open space requirements.
  - (1) No minimum lot size for this district.
  - (2) Development shall be connected to Village water and wastewater systems, where available.
  - (3) There shall be adequate stormwater retention in place.
  - (4) Front setbacks are set at zero for this district, with the exception that the primary building structure is placed at the front of the lot and any accessory buildings be placed behind this structure.
  - (5) There shall be a minimum rear setback of 10 feet on all lots, regardless of development type.
  - (6) An accessory building shall not be placed within any side or rear setback area except when the lot line borders a vehicle-accessible irrigation ditch, roadway or utility easement, in which case the accessory building may be placed on the lot

line. Any accessory building shall be subject to floodplain regulations, and if the total area is greater than 200 square feet, the structure shall require a building permit.

- (7) There are no open space requirements within this district.
- (8) All development within the district shall be subject to floodplain regulations. See § 130-22, Flood Hazard Overlay District.

C. Permissive uses. Any of the following permissive uses are allowed in this zone:

- (1) Accessory uses and structures.
  - (a) Except when the use or the structure is considered a vendor or a retail business [see § 130-20D(6)].
- (2) Agricultural activities. Agricultural activities include the cultivation, harvesting, selling of produce and the raising and management of livestock and fowl. The raising and management of livestock and fowl must follow the regulations outlined in Chapter 14, Animals and Fowl.
- (3) Single-family residential.
- (4) Manufactured home.
- (5) Commercial. Commercial uses are permitted in any area within this district. Any of the following commercial uses are allowed in this district so long as they are constructed upon a permanent foundation:
  - (a) Eating and drinking establishments.
  - (b) Banking and financial services.
  - (c) Business and personal services.
  - (d) Galleries and museums.
  - (e) Retail business establishments.
  - (f) Hotels and lodges.
  - (g) Bed-and-breakfasts in accordance with § 130-24 of this chapter.

D. Conditional uses. Conditional uses shall be permanent or renewable as outlined in this chapter. The following uses shall be allowed in this zone district only upon permit granted by the Planning and Zoning Commission.

- (1) Mixed-use development.
- (2) Multifamily residential.
- (3) Accessory dwelling units (ADUs). The maximum size of any ADU in this district is 1,000 square feet, regardless of the primary structure size.

- (4) Home occupations in accordance with § 130-25 of this chapter.
- (5) Religious institutions.
- (6) Temporary roadside business stand (see Chapter 20, Business Registration and Licensing, Article III, Itinerant Vendor License, § 20-19 et seq.).
  - (a) The maximum size of any temporary roadside business stand shall not exceed 150 square feet.
  - (b) Temporary roadside business stands shall be incidental to the primary use of property.
- (7) Alternative energy system, provided it meets all requirements outlined in § 130-30 of this chapter.

**§ 130-21. Neighborhood Residential District.**

- A. Intent. This zone provides for areas of the Village that currently consist of lots smaller than 1/4 of an acre and are specifically residential in use. It is intended to preserve the smaller lots located adjacent to the Village Commercial District without compromising the still rural residential culture of the area.
- B. Setbacks, lot size, and open space requirements.
  - (1) The minimum lot size for this district is 1/4 of an acre.
  - (2) Development shall be connected to the Village water and wastewater systems where available.
  - (3) There shall be adequate stormwater retention in place.
  - (4) There shall be a front setback of 10 feet.
  - (5) There shall be a side setback of 10 feet.
  - (6) There shall be a minimum rear setback of 10 feet.
  - (7) An accessory building shall not be placed within any side or rear setback area except when the lot line borders a vehicle-accessible irrigation ditch, roadway or utility easement, in which case the accessory building may be placed on the lot line. Any accessory building shall be subject to floodplain regulations, and if the total area is greater than 200 square feet, the structure shall require a building permit.
  - (8) There are no open space requirements within this district.
  - (9) All development within the district shall be subject to floodplain regulations. See § 130-22, Flood Hazard Overlay District.
- C. Permissive uses. Any of the following permissive uses are allowed in this zone:

- (1) Single-family residential.
  - (2) Manufactured home.
  - (3) Accessory uses and structures.
  - (4) Agricultural activities. Agricultural activities include the cultivation, harvesting, selling of produce, and the raising and management of livestock and fowl. The raising and management of livestock and fowl must follow the regulations outlined in Chapter 14, Animals and Fowl.
  - (5) Commercial uses. Commercial uses are not permitted in this district.
- D. Conditional uses. Conditional uses shall be permanent or renewable as outlined in this chapter. The following uses shall be allowed in this zone district only upon permit:
- (1) Accessory dwelling units (ADUs).
  - (2) Home occupations in accordance with § 130-25 of this chapter.
  - (3) Religious institutions.
  - (4) Alternative energy system, provided it meets all requirements outlined in § 130-30 of this chapter.

#### **§ 130-22. Flood Hazard Overlay District.**

- A. Intent. The Flood Hazard Overlay District provides special regulations designed to reduce flood damage. The requirements of this overlay district are in addition to those contained in any basic district. Where the provisions of this overlay district conflict with the provisions of another district, the provisions of the overlay district shall prevail. See Chapter 29, Flood Damage Prevention, for specific requirements pertaining to this overlay district.
- B. Boundaries. The boundaries of the Flood Hazard Overlay District shall be determined by the most current Flood Insurance Rate Map maintained by FEMA and the Sandoval County Floodplain Manager. All boundaries of this overlay district shall substantially conform to the designated flood hazard areas identified under the National Flood Insurance Program.
- C. Permit. All uses allowed in the basic zone, including permissive, conditional, and accessory uses, shall be subject to special review and shall require a development permit pursuant to any existing or subsequent flood damage protection ordinances of the Village. See § 29-16 for specific permit requirements.

#### **§ 130-23. Steep Slope Overlay District.**

- A. Intent. This section regulates development activity in areas containing steep terrain and provides the means for additional review and protection to limit soil erosion, minimize

the extent of disturbance, control stormwater runoff, limit the removal of vegetation, and maintain the natural topography.

B. Boundaries. The boundaries of the Steep Slope Overlay Zone shall be as shown on the Steep Slope Overlay District Map and shall identify all land within the zoning jurisdiction of the Village that has a slope of 25% or greater. The requirements of this overlay zone are in addition to those contained in any basic zone. Where the provisions of this overlay zone conflict with the provisions of another zone, the provisions of the overlay zone shall prevail.

C. Definitions. The following definitions apply in the interpretation of this section:

**DISTURBANCE** — Any activity involving the clearing, excavating, storing, grading, filling or transporting of soil, or any other activity which causes soil to be exposed to the danger of erosion, including clearing of vegetation.

**EROSION** — The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

**GRADE** — Slope or steepness of the land.

**GRADING** — The moving of soil to reshape the land, including soil stripping, cutting, filling, or stockpiling.

**NATURAL SLOPE** — The grade of the ground surface prior to any grading, excavation, or filling.

**STEEP SLOPE** — Any natural slope that has a grade of 25% or greater. A twenty-five-percent slope is a slope that rises or falls 25 feet for each 100 feet of horizontal length.

**STORMWATER RUNOFF** — The water that flows over the land as a result of a rainstorm or snowmelt.

D. Steep slope development standards. The following standards apply to all development activity within the Steep Slope Overlay Zone:

(1) Open space and conservation uses are permitted on steep slopes, provided they do not include any land disturbance, clearing of vegetation, or removal of soil, unless activities involving watershed management practices are conducted in accordance with an official management plan approved by the Village or other appropriate agency.

(2) Steep slope areas containing pasture and grazing land are permitted in accordance with recognized natural resource and soil conservation practices.

(3) The following development activities shall be prohibited within the Steep Slope Overlay Zone:

(a) Development of buildings and structures;

(b) Water and wastewater systems;

- (c) Public utility distribution lines and facilities;
  - (d) Roads, driveways or parking areas;
  - (e) Extraction of natural materials;
  - (f) Development of any land not designated as being within the steep slope area that is completely surrounded by land designated as being within the steep slope area; and
  - (g) Development of any land along the ridgetop of the valley along each side (east/west) of the Village of Jemez Springs.
- (4) Telecommunication structures shall be prohibited within the Steep Slope Overlay Zone unless a special exemption is granted, as well as a conditional use permit as outlined in Chapter 123, Wireless Telecommunications Facilities, of the Code of the Village of Jemez Springs.
- E. Special exemptions. Should it become necessary to grant relief from the prohibitions of the Steep Slope Overlay Zone regulations, a special exemption may be granted by the governing body utilizing procedures similar to those for a zoning amendment in this chapter. Such procedures include the following:
- (1) A special exemption from the steep slope regulations shall be initiated by an application and filing fee submitted to the Zoning Administrator and processed in the same manner as a zoning amendment by transmitting the application to the Planning Commission for a public meeting and then forwarding the application with Planning Commission recommendations to the governing body for final public hearing and decision.
  - (2) The application for special exemption from the steep slope regulations shall be accompanied by a detailed site plan containing a description of the natural slope and topographic features of the site, a grading and site clearing plan, architectural plans for any structures, erosion and drainage control plans, and a signed statement by the landowner recognizing the difficulties associated with access stemming from steep slope conditions.
  - (3) The following steep slope regulations and restrictions shall apply to any development activities proposed in an application for special exemption:
    - (a) The principal area of disturbance for development on a steep slope shall not exceed 5,000 square feet in area, with the exception of necessary access roads and utility transmission lines.
    - (b) All cuts and fills shall be properly stabilized or supported by retaining structures to prevent erosion.
    - (c) Finished slopes of all cuts and fills shall not exceed 33%
    - (d) The alignment of roads and driveways shall follow the natural topography, with a maximum grade of the road or driveway not to exceed 10% and

constructed in a manner that will not cause accelerated erosion or other unstable conditions.

- (e) Stormwater runoff from disturbed areas shall be controlled by retention structures, vegetative cover, or other acceptable means to prevent erosion.

## ARTICLE V Supplementary Regulations

### § 130-24. Bed-and-breakfast.

No bed-and-breakfast use shall be lawfully established without first obtaining a conditional use permit pursuant to the provisions of this chapter. Additionally, before issuance of a conditional use permit, an applicant shall show satisfactory written proof that the property has been inspected and approved by the Planning Commission for compliance with these regulations, and the Health Department, and that all required licenses have been issued by the State of New Mexico. The facility shall comply with all applicable fire, health and safety codes.

- A. Zoning requirements. A bed-and-breakfast establishment is permitted (with a conditional use permit) in the Rural Development District and the Village Center District Zoning Districts and is prohibited in all other zoning districts and must have the agreement of all property owners within 100 feet of the proposed establishment.
- B. Maximum size. Bed-and-breakfast facilities are limited to a maximum of six guest rooms available for rent to guests. All guest rooms shall be contained within the principal structure. No residence shall be utilized for a bed-and-breakfast operation unless there are at least two exits to the outdoors from such premises. Rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room.
- C. Lighting. Lighting shall conform to Chapter 51, Lighting, Outdoor ("dark skies ordinance").
- D. Sewer and water hookup. The residence shall be connected to the Village sewer and water systems, where available, and if not, must conform to NMED regulations for septic systems.
- E. Smoke alarms. Smoke alarms shall be hardwired (not battery operated), installed and maintained in each room designated for guest occupancy.
- F. Escape window. Each guest room in the bed-and-breakfast residence shall be provided with an escape window as defined in the state building code.
- G. Length of stay. No guest shall stay in the facility for more than 30 days.
- H. Liquor service. No liquor, beer or wine is to be sold or served by the owner/manager to paying guests on the premises without a valid beer and wine license. (Bed-and-breakfast Beer and Wine Licenses, NM Legislative Session 2013, HB506 and SB423.)

- I. Commercial vehicle traffic. Commercial vehicle traffic to the facility for services such as laundry, food delivery, and refuse collection shall not exceed that customarily associated with a typical residential dwelling.

**§ 130-25. Home occupation.**

No person or entity shall engage in a home business or occupation of any kind within the Village limits without the issuance of a home occupation permit by the Planning Commission. The permit shall be either permanent or renewable. "Home occupation" includes, but is not limited to, the design, preparation, production, or distribution of goods and/or services. If a home occupation permit meets all the following requirements, it may be approved by the Planning and Zoning Commission. Any deviations from the following requirements will require approval from the Planning and Zoning Commission.

- A. Agricultural activities exceptions. Agricultural activities are encouraged and are permissive uses within the Village. Raising and selling crops and the raising and management of livestock and fowl that is exempt from New Mexico gross receipts tax and governmental gross receipt tax under NMSA 1978, § 7-9-18, does not require a home occupation permit. If all the agricultural activities are not exempt from governmental gross receipt tax, a Village of Jemez Springs business license is required.
- B. Application and fee. Any one wanting to engage in a business or occupation must submit a completed home occupation permit application. The application shall be returned to the Administrator, accompanied by the appropriate application fee.
- C. Requirements. The Planning and Zoning Commission shall issue approval for a home occupation permit if the Commission finds:
  - (1) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by the occupants.
  - (2) No person other than members of the family residing on the premises shall be engaged in a home occupation. Allowances shall be made for nonfamily employees not working on the premises of the home occupation to visit the premises, provided such employees' responsibilities are identified, and the frequency of daily trips made to the premises of the home occupation is stated. Nonfamily member employees shall not report for work at the home occupation premises.
  - (3) Not more than 25% of the floor area of the dwelling unit or not more than 600 square feet in one accessory building, contiguous and partitioned, shall be used for all home occupations upon the lot.
  - (4) There shall be no change in the exterior appearance of the building or premises, or any visible evidence of a home occupation other than:



- (a) Activities normally associated with a permissive use of the residence; and
  - (b) An appropriate sign as regulated by the signage regulations section of this chapter.<sup>3</sup>
- (5) All business-related tools and materials shall be maintained to have an orderly appearance.
  - (6) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, noxious odors, or other nuisances detectable from adjacent properties.
  - (7) There shall be no sales of goods or services from the home which would generate greater traffic volume than would be created in a residential neighborhood.
  - (8) No more than two service vehicles used in the conduct of the home occupation shall be upon the premises at any one time.
  - (9) Any parking needs generated by the conduct of the home occupation shall be met using the parking supplied by the residence.
  - (10) A maximum of one occupation shall be permitted on any one lot at any one time.

D. Additional requirements.

- (1) In approving a home occupation permit, the Commission shall designate the specific uses permitted.
- (2) Any change in use and/or addition to the site of any structure to be used in conjunction with the home occupation shall require the resubmittal of an application and approval as required by the requirements section of this chapter. All representations made by the applicant to the Commission or to the governing body in connection with an application for a home occupation permit, whether presented in written form or verbally presented at hearing, shall be deemed conditions of the home occupation permit, and any subsequent deviation therefrom shall be considered a change in use requiring resubmittal of an application and approval of an amended home occupation permit reflecting the change in use.
- (3) No use will be allowed which will create dangerous, injurious, noxious, or other conditions that will pose a threat to public health, safety and welfare. No adverse impact on surrounding property will be allowed.

E. Prohibited home occupations:

- (1) Auto body paint shops.
- (2) Any occupation requiring the use of explosives.

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3. Editor's Note: See § 130-26, Signs and outdoor advertising devices.

**§ 130-26. Signs and outdoor advertising devices.**

A. Special definitions. For the purpose of this section, the following definitions shall apply:

**ANIMATED SIGN** — Any sign that uses movement of light, or change in the lighting, to depict action or create a special effect or scene within the sign face.

**AUXILIARY SIGN** — A sign which provides specific information such as direction, price, sales information, hours of operation, or warning and does not include information regarding product lines or services. Examples of such signs include the following:

- (1) Signs identifying building contractors or future tenant of a building under construction.
- (2) Real estate sale or lease signs and real estate directional signs.
- (3) Signs used by gasoline retailers to display prices of gasoline as required by law.
- (4) Signs which direct but do not obstruct the flow of traffic in or out of drives, parking areas and buildings.
- (5) Signs which advertise an approved subdivision, its buildings, or individual parcels for sale.

**BANNER** — Any sign printed or displayed upon cloth or other flexible material, with or without frames.

**BUILDING-MOUNTED SIGN** — A sign entirely supported by a building in the following manner: a wall sign, which is applied or mounted flush to any exterior surface of a building; and signs affixed to a marquee, awning, or canopy of a building. A building-mounted sign shall not project beyond the overall silhouette of the building.

**DIRECTIONAL SIGN** — Any sign limited to directional messages such as "enter" or "exit." Logos and business names are permitted as needed to complete the directional message.

**FREESTANDING SIGN** — A sign attached to an independent supporting structure which is not an integral part of a building.

**ILLUMINATED SIGN** — Any sign which has characters, letters, figures, designs, or outlines illuminated by an artificial light source. These types of signs may be lit from within, through an indirect light source, or by means of a strong beam of light that illuminates only a small area.

**OFF-PREMISES SIGN** — Any sign that is not physically located on the premises to which the sign refers.

**ON-PREMISES SIGN** — Any sign that is physically located on the premises to which the sign refers.

**PENNANT** — Any lightweight plastic or fabric, or other material, including balloons, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

PORTABLE SIGN — Any sign which is mounted or transported on a trailer or similar structure, with or without wheels, and not permanently attached to the ground or any structure.

READER BOARD — A sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face or the surface of the sign. A reader board shall be a building-mounted, freestanding, or portable sign, and can include electronically changing text messages.

SIGN — Any display to public view of letters, words, numerals, figures, statues, devices, emblems, logos, pictures, or any parts or combinations thereof designed to inform or advertise or promote merchandise, services, or activities.

SIGN FACE — The net geometric area enclosed by the display surface of the sign and which encompasses the outer extremities of all letters, characters and delineations of the sign. On any two-sided sign, only one sign face is counted in computing the sign's area.

STREET BANNER — A sign intended to be stretched across and hung over a public roadway.

TEMPORARY SIGN — A sign which is designated to attract attention or announce a public event, community activity, civic or religious event, political campaign, business promotional event or other such signs which are erected for a limited time period.

B. General provisions. The following general provisions apply to all signs within the Village of Jemez Springs.

- (1) No sign shall exceed 15 feet in height, as measured from the grade to the highest part of the sign or its supporting structure.
- (2) Any sign located at a roadway intersection shall comply with the restrictions regarding the vision clearance necessary within the designated triangular space on a corner lot (clear sight triangle).
- (3) No sign or portion thereof shall be placed within a dedicated public right-of-way or a private roadway.
- (4) All signs shall be repaired and maintained in an appropriate and safe manner. Any sign deemed to be in disrepair by the Planning and Zoning Commission shall be considered to be in violation of this chapter.

C. Regulations for business signs. The following regulations shall apply to all businesses, commercial activities, and services throughout the Village of Jemez Springs. Nothing under this section shall inhibit the use of miscellaneous design features incorporated in the architectural scheme of a building.

- (1) No more than one permanent, on-premises sign shall be allowed to advertise each business, commercial, or service activity.
- (2) One additional, portable sign shall be allowed on any lot.
- (3) No sign face shall exceed 32 square feet, except painted wall signs.

- (4) Signs may be illuminated and/or animated, but shall not oscillate or emit sounds.
  - (5) Electronic signs with messages are limited to one message every 15 minutes and may not be scrolling.
  - (6) One nonilluminated sign is permitted for each home occupation, approved by the Village, provided that no such sign face shall exceed four square feet. The home occupation sign must be attached to the dwelling.
  - (7) Buildings with multiple tenants are allowed to have one freestanding sign, and tenants shall share space on the freestanding sign. Each tenant is allowed up to 10 square feet. The total combined sign face for buildings with multiple tenants shall not exceed 64 square feet.
- D. Regulations for auxiliary signs. The following regulations for auxiliary signs shall apply to all districts, unless otherwise specified within the Village of Jemez Springs.
- (1) Signs related to the sale, lease, or development of real estate shall comply with the following regulations:
    - (a) One on-premises sign per lot frontage is permitted, provided that each sign face shall not exceed 10 square feet.
    - (b) Off-premises signs directing or leading prospective buyers to real estate for sale or lease shall be limited to no more than three signs for each property, provided that no such sign face shall exceed four square feet.
    - (c) Signs promoting or advertising subdivisions for sale shall not have a sign face greater than 32 square feet.
    - (d) All real estate signs shall be removed within 30 days after the property is sold or the project is completed.
  - (2) One price sign per gasoline retailer is permitted, provided that no such sign face shall exceed 32 square feet.
  - (3) Any private signs which direct traffic shall not contain a sign face greater than five square feet.
  - (4) Informational signs relating to business, commercial or service activities shall be on-premises signs, each limited to a sign face no greater than five square feet.
- E. Regulations for temporary signs. The following regulations for temporary signs shall apply to all districts within the Village of Jemez Springs.
- (1) Signs related to a political campaign prior to an election shall be permitted on any lot, provided the following conditions are met:
    - (a) Such signs shall not be placed more than 60 days prior to the election and shall be removed within 30 days following the election.
    - (b) Such signs shall not exceed eight square feet.

- (c) The height of such signs shall not exceed eight feet above grade.
  - (d) Written permission of the landowner shall be provided to the Planning and Zoning Commission before placing a sign on a vacant or unoccupied property.
  - (e) The person or committee whose name appears on the sign shall be responsible for its removal. If the sign(s) is (are) not removed within 30 days of the election, the candidate will be responsible for the cost associated with the removal.
- (2) All other temporary signs, including banners, which are not related to a political campaign will be permitted on any lot, provided that such signs shall not be displayed more than three consecutive days for each announced event. A sign permit, purchased on an annual basis to run from January 1 to December 31, is required and shall be approved for use of no more than four nonconsecutive times within that year. Dates shall be submitted at the time of application.
  - (3) A-frame signs are allowed; however, they shall not be placed within the clear sight triangle or street right-of-way. A-frame signs must be on-premises signs.
  - (4) Informational signs shall not exceed four square feet.
- F. Prohibited signs. The following signs are prohibited and shall be removed or brought into conformance with this chapter:
- (1) Signs which contribute to confusion of traffic control or resemble traffic control lighting; unauthorized signs, signals, markings, or devices which purport to be or are imitations of official traffic control devices or railroad signs or signals; or signs which obstruct the visibility of or interfere with the effectiveness of any official traffic control devices or any railroad signs or signals.
  - (2) Portable metal frame signs, illuminated or nonilluminated, mounted on wheels or not, whether or not affixed by chains or otherwise made to appear to be permanent to a site.
    - (a) Portable signs existing at the time of this chapter are grandfathered only as long as the sign remains on the original premises and is not relocated.
  - (3) Signs with audible devices.
  - (4) Signs on the public right-of-way, except for name and address signs on mailboxes.
  - (5) Any signs on the public right-of-way that impede pedestrian access.
  - (6) Signs in the clear sight triangle at a roadway or driveway intersection.
  - (7) Abandoned signs, signs in disrepair, and signs that advertise businesses or services that are no longer in operation or available.
  - (8) Billboards.

- (9) Signs attached to or painted on any tree, rock or other natural object, utility pole, or any other man-made object not intended to support a sign.
- G. Sign permits. The following provisions apply to all zone districts within the Village of Jemez Springs:
- (1) No person shall erect a sign within Jemez Springs without first applying for a sign permit on a prescribed application form available from the Village Clerk. A permit will not be required for the following exceptions:
- (a) National, state or locally recognized commemorative symbols, flags, plaques, or historical markers.
  - (b) Signs or official notices required by law or signs of a duly constituted governmental body or agency.
  - (c) Merchandise and pictures or other devices describing products or services when incorporated in a window display.
  - (d) Signs placed by a public utility for the health, safety, welfare, or convenience of the public.
  - (e) Professional nameplates erected flush to building walls with a sign face not exceeding four square feet.
  - (f) Temporary holiday decorations, except temporary street banners.
  - (g) On-premises real estate signs with a sign face not exceeding nine square feet.
  - (h) Any renovation or content changes to the sign face, but not changes in dimension, location, or height.
  - (i) Political signs that conform to the requirements of this chapter.
  - (j) Signs which only display local time and temperature, not exceeding two square feet.
  - (k) Signs painted on the exterior surface of a building or structure. Wall signs shall not exceed 100 square feet or exceed 30% of the wall space, whichever is smaller, in which the business or activity is housed. Wall signs shall be limited to advertise the business within the building or retail space, and products produced or sold by that business.
- (2) Applications for a sign permit shall be accompanied by an administrative fee and shall include the following information:
- (a) Name and address of the sign owner or sign lessee (if any).
  - (b) Name and address of the owner (or agent, if applicable) of the building or premises to which the sign refers.
  - (c) A drawing showing the design, dimensions, and construction of the proposed location or placement of the sign or signs.

- (d) Signature of the applicant for the sign permit.
- (3) If the Planning and Zoning Commission determines that any sign permit which has been issued does not comply with the information supplied on the permit application form or that the permitted sign is in violation with any other provisions of this chapter, then the Planning and Zoning Commission shall notify the sign or building owner of such violation. Written notice shall be sent to the applicant of the sign permit, sign owner, and building owner by certified mail, return receipt requested. If the violation is not corrected within 30 days following the date of such written notice, then the permit shall be terminated. Thereafter, a new permit application and fee shall be required in order to reinstate the permit. If no application is made to reinstate the terminated permit, the Planning and Zoning Commission is authorized to remove or cause removal of such sign or signs in violation of this chapter, and any cost incidental thereto shall be assessed and paid by the sign owner or owner of the building or structure.
- (4) Any sign existing prior to the effective date of this chapter, and which is not in violation with any pre-existing Village sign regulation, shall be allowed to remain under this chapter.

#### H. Sign variance.

- (1) Definition. A sign variance allows an individual to install a sign on his/her property in a way that is otherwise prohibited by the Village's Zoning Ordinance. A sign variance is typically sought by an individual requesting to waive one or more dimensional standards, such as size and height limitations, placement in reference to the building and/or street, or type of sign allowed in a particular district.
- (2) Purpose. Due to the complexity of sign ordinances in general, there may be instances where the requirements of this chapter may restrict the economic practices of a particular business or advertiser and result in a particular hardship or difficulty. The sign variance is a relief mechanism to provide grant exceptions to the application of this chapter, and this section in particular.
- (3) Review criteria. In assessing the appropriateness of a sign variance application, the Planning and Zoning Commission shall take into consideration the benefit to the applicant if the variance is granted, as weighed against any resulting detriment to the health, safety and welfare of the neighborhood or community. In doing so, the Planning and Zoning Commission shall consider the following:
  - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the sign variance;
  - (b) The particular hardship or difficulty to the petitioner if the sign variance request is denied;
  - (c) Whether the benefit sought by the applicant can be achieved by some feasible method other than a sign variance;

- (d) Whether the requested sign variance is substantial;
  - (e) Whether the sign variance will have an adverse effect on pedestrian and vehicular traffic; and
  - (f) If the hardship has been self-created by the applicant.
- (4) Application procedure.
- (a) An application for a sign variance, including all supporting materials, must be submitted to the Zoning Administrator, who shall schedule a hearing on the application before the Planning and Zoning Commission pursuant to the Open Meetings Act, NMSA 1978, §§ 10-15-1 to 10-15-4.
- (5) Public notification. The hearing before the Planning and Zoning Commission at which a request for variance will be heard must receive notice pursuant to the Open Meetings Act, NMSA 1978, §§ 10-15-1 to 10-15-4. All neighboring properties within 100 feet shall be notified by certified mail.
- (6) Following a public hearing and review of the sign variance proposal at the Planning and Zoning Commission meeting, the Commission shall act within 30 calendar days of the hearing date. In deciding on the sign variance request, the Planning and Zoning Commission may approve, approve with modifications or deny the variance. In addition, the Planning and Zoning Commission may impose such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the variance, as necessary to secure compliance with this chapter, and to minimize any adverse impacts on the neighborhood or the community.
- (7) Required materials to be submitted.
- (a) Five copies of a completed application form available in the Village Clerk's office.
  - (b) Five copies of a site plan or map detailing the property in question.
  - (c) Five copies of a drawing or rendering of all proposed and existing signs showing:
    - [1] Location on lot or building, including setback distances from lot lines and driveways/access roads.
    - [2] Dimensions of the proposed sign, including ground clearance and overall height from grade.
    - [3] Colors, fonts and specific wording.
  - (d) The required application fee.



**§ 130-27. Off-street parking and loading.**

- A. Off-street parking requirements. There shall be provided, at the time any new building or structure is erected, off-street parking spaces as set forth in this section. All existing buildings or structures need supply such parking only to the extent ground space is available. Parking may be located on any portion of the lot but shall not obstruct any public right-of-way.
- B. Minimum parking spaces. The minimum number of parking spaces to be provided shall be shown on the following list:
- (1) Single-family dwellings: two spaces per dwelling unit.
  - (2) Multifamily dwellings: 1 1/2 spaces per dwelling unit.
  - (3) Hotels and motels: one space per unit and one space per two employees.
  - (4) Clinics and convalescent or nursing homes: one space per two beds and one space per staff doctor.
  - (5) Places of public assembly, such as churches, community centers, auditoriums, and theaters: one space per four seats when fully occupied.
  - (6) Club, lodge, or fraternal organization: one space per 200 square feet of floor area.
  - (7) Banks, offices, service establishments, retail businesses, and public buildings: one space per 300 square feet of floor area.
  - (8) Restaurants, bars: one space per four seats.
- C. Parking design standards. The following minimum design standards shall be observed in laying out off-street parking facilities:
- (1) All driveways shall be of sufficient width to permit access into parking spaces.
  - (2) Each parking space shall consist of an area not less than nine feet by 20 feet.
- D. Off-street loading requirements. Buildings or structures built or substantially altered after the effective date of this chapter which receive or distribute bulk materials by motor vehicle shall provide off-street loading and unloading space as approved by the Zoning Administrator. Minimum off-street loading space shall be at least 50 feet long and 12 feet wide, and shall not be located on any designated parking space or public right-of-way. No trucks shall be permitted to obstruct the flow of traffic while unloading.

**§ 130-28. Building permit application.**

- A. Permit required. As provided by the laws of the state, no building or other structure within the Village shall be erected, moved, added to, or structurally altered without first obtaining a separate building permit from the state for each such building or structure.
- B. Application review. All applications for building permits shall first be reviewed by the Zoning Administrator prior to submittal to the appropriate agency of building inspection.

The Zoning Administrator shall review each building permit application as it may pertain to the provisions of this chapter, particularly in regard to zone changes, conditional use permits, variances, and floodplain restrictions. A building permit application shall not be retained by the Zoning Administrator for more than five working days for the purposes of this section.

- C. Endorsement. The Zoning Administrator shall endorse each building permit application and may attach any necessary written comment to said application in reference to possible violations to this chapter.

**§ 130-29. Nonconforming uses.**

- A. Definition. Within the zones established by this chapter, or amendments that may later be adopted, there exist: lots, structures, uses of land and structures, and characteristics of use which were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to allow these nonconformities to continue until they are removed, but not to encourage their survival.
- B. Certificate of nonconformance. Upon receipt of a written notification from the Zoning Administrator, it shall be the responsibility of the owners of nonconforming property to apply to the Zoning Administrator for a certificate of nonconformance within 60 days after the date of notification. Failure to apply for a certificate of nonconformance under the provisions of this section shall be considered a violation of this chapter.
- C. Expansion. Nonconformity shall not be enlarged, expanded, or extended; however, the addition of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this chapter shall not be deemed an extension of such nonconforming use.
- D. Restoration and replacement. If a nonconforming structure is damaged or destroyed by any means, its restoration and/or replacement shall be permitted, provided that:
- (1) There is no increase in lot coverage or total square footage of structures as a result of that restoration and/or replacement; and
  - (2) Restoration and/or replacement is in conformance with the height, setback, open space, landscaping and architectural requirements of this chapter within the applicable zone district.
- E. Abandonment. Whenever a nonconforming use has been discontinued or abandoned for a period of one year or more, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this chapter.
- F. Nonconforming lot size. Any lot of record existing prior to the effective date of this chapter which fails to meet the minimum requirements of this chapter may be developed, redeveloped, or improved, provided that all other requirements of the lot are in conformance with the provisions of this chapter and provisions of all other state laws and Village ordinances. Unless specifically cited by the Planning and Zoning Commission, a certificate of nonconformance will not be required for nonconforming lots.

**§ 130-30. Alternative energy systems.**

- A. Purpose. It is the purpose of this section to promote the safe, effective and efficient use of solar and wind energy systems installed to reduce the on-site consumption of utility-supplied energy and/or hot water as a conditional accessory use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. A solar or wind energy system shall be considered a conditional use in any zoning district as an accessory to a principal use herein and subject to specific criteria as set forth below. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.
- B. Any alternative energy system shall comply with any and all federal and state safety requirements.
- C. Solar energy systems.
- (1) Solar energy systems on a utility scale as defined in this chapter are prohibited within the municipal limits of the Village of Jemez Springs.
  - (2) The installation and construction of a solar energy system shall be subject to the following development and design standards:
    - (a) A solar energy system is a conditional use in all zoning districts as an accessory to a principal use.
    - (b) A solar energy system shall provide power for the principal use and/or accessory use of the property on which the solar energy system is located and shall not be used for the generation of power for the sale of energy to others, although this provision shall not be interpreted to prohibit the sale of excess power generated to the local utility company.
    - (c) All solar energy systems connected to the utility grid shall maintain written authorization from the local utility company acknowledging and approving such connection.
    - (d) A solar energy system may be roof mounted or ground mounted.
      - [1] A roof-mounted system may be mounted on a principal building or accessory building. A roof-mounted system, whether mounted on the principal building or accessory building, shall not exceed the maximum principal building height or accessory building height specified in the underlying zoning district. In no instance shall any part of a roof-mounted solar energy system extend beyond the edge of the roof.
      - [2] Where a solar energy system is mounted to a flat roof, such a mounting angle to allow for the maximum solar efficiency possible will be allowed; however, roof-mounted tracking systems are prohibited.
      - [3] A ground-mounted system shall not exceed the maximum building height for accessory buildings.

- [a] In zoning districts where open space requirements exist, the surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
  - [b] A ground-mounted system or system attached to an accessory building shall not be located within the required front yard setback outlined in the specific zone district.
  - [4] The minimum solar energy system setback distance from the property line shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
  - [5] All mechanical equipment associated with and necessary for the operation of the solar energy system shall comply with the following:
    - [a] Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other noninvasive plant species which provides a visual screen.
    - [b] Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.
    - [c] Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district.
  - [6] Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.
  - [7] All power transmission lines from a ground-mounted solar energy system to any building or other structure shall be located underground.
  - [8] A solar energy system shall not be used to display advertising. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy system, provided they comply with the prevailing sign regulations.
  - [9] A solar energy system shall not be constructed until a building permit has been approved and issued, where applicable.
  - [10] A solar energy system shall not be constructed until a conditional use permit has been approved and issued.
  - [11] The solar energy system shall comply with all applicable Village ordinances so as to ensure the structural integrity of such solar energy system.
- (3) Abandonment. If a ground-mounted solar energy system has been abandoned for a period of six months, or is defective or is deemed to be unsafe by the Village, the solar energy system shall be required to be repaired by the owner to meet federal, state and local safety standards, or be removed by the property owner within the

time period allotted by the Village. If the owner fails to remove or repair the defective or abandoned solar energy system, the Village may pursue a legal action to have the system removed at the owner's expense.

D. Wind energy systems.

- (1) Wind energy systems on a utility scale as defined in this chapter are prohibited within the municipal limits of the Village of Jemez Springs.
- (2) The installation and construction of a wind energy system shall be subject to the following development and design standards:
  - (a) A wind energy system is a conditional use in all zoning districts as an accessory to a principal use.
  - (b) A wind energy system shall provide power for the principal use and/or accessory use of the property on which the wind energy system is located and shall not be used for the generation of power for the sale of energy to others, although this provision shall not be interpreted to prohibit the sale of excess power generated to the local utility company.
  - (c) All wind energy systems connected to the utility grid shall maintain written authorization from the local utility company acknowledging and approving such connection.
  - (d) A wind energy system may be roof mounted or ground mounted.
    - [1] A roof-mounted system may be mounted on a principal building or accessory building. A roof-mounted system, whether mounted on the principal building or accessory building, shall not exceed 10 feet past the maximum building height. The roof-mounted wind energy system shall have a blade diameter of no more than five feet.
    - [2] Ground-mounted wind energy systems are not permitted on residential parcels.
    - [3] Wind energy systems are not permitted any open space designated areas or steep slope overlay areas.
      - [a] A wind energy system attached to an accessory building shall not be located within the required front yard setback outlined in the specific zone district.
    - [4] All mechanical equipment associated with and necessary for the operation of the wind energy system shall comply with the following:
      - [a] Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other noninvasive plant species which provides a visual screen.

- [b] Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.
  - [c] Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district.
  - [5] Braking systems. All wind energy systems shall be designed with braking mechanisms or overspeed control to prevent uncontrolled rotation, excessive speed and pressure on the support structure, rotor blades and system components.
  - [6] A wind energy system shall not be used to display advertising. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the wind energy system, provided they comply with the prevailing sign regulations.
  - [7] A wind energy system shall not be constructed until a building permit has been approved and issued, where applicable.
  - [8] A wind energy system shall not be constructed until a conditional use permit has been approved and issued.
  - [9] The wind energy system shall comply with all applicable Village ordinances so as to ensure the structural integrity of such wind energy system.
- (3) Abandonment. If a roof-mounted wind energy system has been abandoned for a period of six months, or is defective or is deemed to be unsafe by the Village, the wind energy system shall be required to be repaired by the owner to meet federal, state and local safety standards, or be removed by the property owner within the time period allotted by the Village. If the owner fails to remove or repair the defective or abandoned wind energy system, the Village may pursue a legal action to have the system removed at the owner's expense.

E. Geothermal energy systems.

- (1) Geothermal energy systems on a utility scale as defined in this chapter are prohibited within the municipal limits of the Village of Jemez Springs.
- (2) The installation and construction of a geothermal energy system shall be in conformance with the geothermal power provisions, NMSA 1978, § 19-13-1 et seq., in reference to the Geothermal Resources Rules and Regulations set forth by the State of New Mexico Energy and Minerals Department, Oil Conservation Division.

F. Application for alternative energy conditional use permit.

- (1) Anyone requesting an alternative energy conditional use permit must complete the application form for an alternative energy conditional use permit. This form shall be returned to the Zoning Administrator, accompanied by the appropriate

application fee, number of sets of required drawings as noted on the application and sign-off from the local electric co-op or energy provider.

- (2) This alternative energy conditional use permit application shall follow procedures for conditional uses as outlined in § 130-32 of this chapter.

## ARTICLE VI Administration and Enforcement

### § 130-31. Administration.

- A. Zoning Administrator. The office of Zoning Administrator is hereby established. The Zoning Administrator shall be appointed by the governing body to administer the provisions of this chapter. The Zoning Administrator may also serve in some other capacity as an employee or appointed officer of the Village. The Planning and Zoning Commission may act as the Zoning Administrator.
- B. Inspection. The Zoning Administrator has the authority to conduct inspection of buildings, structures, and the use of land to determine compliance with this chapter. This provision does not grant right of entry without due process if necessary.
- C. Enforcement. The Zoning Administrator may institute any appropriate action or proceeding to prevent, restrain, correct, or abate a violation of this chapter.
- D. Information and records. The Zoning Administrator shall provide all necessary information concerning this chapter and shall maintain the Jemez Springs Zone Map in an updated form. A zoning action file shall be established and maintained and shall contain accounts and related records of the following:
  - (1) Conditional use permits.
  - (2) Variances allowed under this chapter.
  - (3) Application for amendments.
  - (4) Certificates of nonconformance.
  - (5) Zoning appeals.
  - (6) Building permits.

### § 130-32. Conditional use procedures.

- A. Conditional use. Conditional uses defined by this chapter shall not be allowed in any zone except upon permit issued by the Planning Commission, which shall be guided in making a decision by the criteria set forth in this section.
- B. Application for conditional use. Anyone requesting a conditional use under this chapter must submit the complete application form for a conditional use permit. This form shall

- be returned to the Zoning Administrator, accompanied by the appropriate application fee and number of sets of required drawings as noted on the application.
- C. Review process for conditional use. The Zoning Administrator shall schedule a hearing on the application before the Planning and Zoning Commission pursuant to the Open Meetings Act, NMSA 1978, §§ 10-15-1 to § 10-15-4.
- D. In considering a request for approval of a conditional use, the Planning and Zoning Commission may impose any condition deemed to be in the best interests of the Village. The Planning and Zoning Commission shall not approve any application for a conditional use permit unless satisfactory provision and arrangement has been made concerning the following, where applicable:
- (1) The use will not significantly change the character of the neighborhood or reduce the value of nearby property.
  - (2) The use will cause no significant hazard, annoyance, or inconvenience to the owners or occupants of nearby property.
  - (3) The use will provide adequate access to traffic and pedestrian circulation; sufficient service areas, including off-street parking; and appropriate consideration of the natural environment.
- E. Public notification. The hearing before the Planning and Zoning Commission at which a request for variance will be heard must receive notice pursuant to the Open Meetings Act, NMSA 1978, §§ 10-15-1 to 10-15-4. All neighboring properties within 100 feet shall be notified by certified mail.

**§ 130-33. Amendment procedures.**

- A. Amendment. The governing body may, from time to time, amend, supplement, or repeal any of the regulations in this chapter. Any proposed amendment to this chapter shall first be submitted to the Planning Commission for its recommendation and report. Zone boundary amendments shall not be held valid if such action is unreasonable or causes a significant detriment to the surrounding neighborhood.
- B. Review process for text amendment. The Administrator shall schedule a public hearing on any proposed text amendment to this chapter before the Planning and Zoning Commission no later than 60 days following the submittal of a request for such public hearing by the governing body. The Commission shall transmit a recommendation in writing to the governing body within 15 days after its review of the proposed amendment is completed.
- C. Application for Zone Map amendment. Anyone requesting a Zone Map amendment to this chapter must submit the completed application form for a Zone Map amendment. This form shall be returned to the Administrator, accompanied by the appropriate application fee and number of sets or required drawings as noted on the application.
- D. Review process for Zone Map amendment. The Administrator shall schedule a hearing on an application for a Zone Map amendment before the Planning and Zoning



Commission no later than 60 days following the submittal of the completed application. The Commission shall transmit a recommendation on any Zone Map amendment request in writing to the governing body within 15 days after its review of the proposed Zone Map amendment is complete. The governing body shall schedule a hearing on the application for a Zone Map amendment as soon as reasonably practicable, but no more than 120 days after the Commission's recommendation is transmitted to the governing body.

- E. Application for variance. For sign variance procedures, see § 130-26 of this chapter. Anyone requesting a variance to this chapter must submit the complete application form for a variance request. This form shall be returned to the Administrator, accompanied by the appropriate application fee and number of sets or required drawings as noted on the application.
- F. Review process for variance. The Zoning Administrator shall schedule a hearing on the application before the Planning and Zoning Commission pursuant to the Open Meetings Act, NMSA 1978, §§ 10-15-1 to 10-15-4.
- G. Conditions for variance. The Planning and Zoning Commission may deny any request for a variance that is based on conditions which are the result of the actions of the applicant. Where the Planning and Zoning Commission finds that the strict application of the requirements of this chapter would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building, a variance may be granted, provided that:
  - (1) The variation of this chapter will not be contrary to the public interest;
  - (2) The variation will not adversely affect adjacent property owners or residents;
  - (3) The conditions are unique to the property; and
  - (4) The variance is authorized only for lot controls and not for use of the premises.
- H. In considering a request for approval of a variance, the Planning and Zoning Commission may impose any condition deemed to be in the best interests of the Village. The Commission shall consider the following:
  - (1) Accessibility to property and proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, all streets/roads, and emergency access in case of fire, flood or catastrophe;
  - (2) Off-street parking and loading areas, where required, with particular attention to refuse and service areas;
  - (3) Show all locations on site for water, septic, sewer, and liquid waste facilities, with reference to soil limitations, locations, and public health;
  - (4) The economic, noise, glare, or odor effects of the proposed use on adjoining properties;
  - (5) On-site drainage and stormwater runoff;

- (6) General compatibility with adjacent properties and other properties in the vicinity;
- (7) The overall health and safety of the community; and
- (8) The goals and objectives of the Comprehensive Plan.

I. Public notification.

- (1) Zone Map or text amendment. The hearing before the Planning and Zoning Commission at which a request for a Zone Map or text amendment will be heard must receive notice at least 15 days prior to the date of the hearing.
  - (a) The subsequent hearing before the governing body at which the Zone Map amendment will be heard must receive legal notice at least 15 days prior to the date of the hearing.
- (2) Variance. The hearing before the Planning and Zoning Commission at which a request for variance will be heard must receive notice pursuant to the Open Meetings Act, NMSA 1978, §§ 10-15-1 to 10-15-4. All neighboring properties within 100 feet shall be notified by certified mail.

**§ 130-34. Appeals.**

- A. Right of appeal. Any person aggrieved by an interpretation, decision or action of the Planning Commission in carrying out the provisions of this chapter may appeal such interpretation, decision or action to the governing body. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by substantial evidence.
- B. Application. An appeal shall be made in writing on prescribed forms obtainable at the Village offices and shall be initiated by application and filing fee submitted to the Zoning Administrator or the Planning Commission within 20 days of the decision. Any appeal not submitted within 20 days after the decision which is the subject of the appeal shall not be considered by the governing body.
- C. Public hearing. Decision on an appeal shall be made by the governing body following a public hearing. Notification of the public hearing shall be posted in accordance with state law at least 15 days prior to the hearing.
- D. Stay of proceedings. A proper appeal by an aggrieved party shall stay all proceedings in the action unless the Planning and Zoning Commission determines that a stay will cause imminent peril to life or property. Upon such certification, the proceedings shall not be stayed except by order of the district court.
- E. Decision. An appeal shall be decided within two months of the date of application of the appeal. The concurring vote of at least 2/3 of the members of the governing body is required to reserve a determination made by the Zoning Administrator or Planning Commission.

**§ 130-35. Violations and penalties.**

Any person found guilty of violating any provision of this chapter shall be guilty of a misdemeanor, punishable as provided in § 1-22 of this Code. Any violation continued for a period of 15 days after conviction shall be prosecuted and treated as a separate offence.