

ORDINANCE NO. 216

AN ORDINANCE ADOPTING A COMPREHENSIVE ZONING
REGULATION FOR THE VILLAGE OF MILAN, NEW MEXICO:

Be it ordained that the Board of Trustees of the Village of Milan, New Mexico hereby adopts the following Zoning Ordinance:

TABLE OF CONTENTS

A. **Article General Provisions**

| | | |
|----------------|---|---|
| Section 1: | Title and Intent | 1 |
| Section 2: | Authority | 2 |
| Section 3: | Jurisdiction and Application | 2 |
| Section 4: | Interpretation and Conflict | 2 |
| Section 5: | Relationship to Existing Zoning | 3 |
| Section 6: | No Use or Sale of Land or Buildings Except in Conformity with the Provisions of this Ordinance | 3 |
| Section 7: | Severability | 4 |
| Section 8: | Repeal and Saving Clause | 4 |
| Sections 9-15: | Reserved | 4 |

A. **Article Definitions and Word Construction**

| | | |
|---------------|-------------------|----|
| Section 16: | Word Construction | 4 |
| Section 17: | Definitions | 4 |
| Section 18-20 | Reserved | 13 |

A. **Article Zoning District Regulations**

| | | |
|-------------|--|----|
| Section 21: | Designation and Establishment of Districts | 14 |
| Section 22: | Agricultural/Residential District | 14 |
| Section 23: | Single Family Residential District | 15 |
| Section 24: | Mixed Residential District | 15 |
| Section 25: | Community Commercial District | 15 |
| Section 26: | Highway-Oriented Commercial District | 15 |
| Section 27: | Industrial District | 16 |
| Section 28: | Public/Institutional District | 17 |
| Section 29: | Planned Development District | 17 |
| Section 30: | Use Table for All Districts | 19 |
| Section 31: | Reserved | 19 |

A. **Article Regulations Applying to All Districts**

| | | |
|-----------------|--|----|
| Section 32: | Non-Conforming Uses, Buildings and Parcels | 19 |
| Section 33: | Home Occupations | 20 |
| Section 34: | Temporary Use | 22 |
| Section 35: | Landscaping, Buffering and Screening | 22 |
| Section 36: | Off-Street Parking | 25 |
| Section 37: | Accessory Buildings, Dwellings and Uses | 30 |
| Section 38: | Mobile Homes and Mobile Home Parks | 31 |
| Section 39: | Signs | 33 |
| Section 40: | Trailers and Recreational Vehicles | 36 |
| Section 41: | Yards | 37 |
| Section 42: | Hazardous Materials Storage | 38 |
| Sections 43-50: | Reserved | 39 |

A. **Article Administration**

B.

| | | |
|-------------|--------------------------------|----|
| Section 51: | Board of Trustees | 40 |
| Section 52: | Planning and Zoning Commission | 40 |
| Section 53: | Code Enforcement Officer | 42 |
| Section 54: | Village Attorney | 43 |
| Section 55: | Application and Fees | 44 |
| Section 56: | Computation of Time | 46 |
| Section 57: | Notice Requirement | 46 |
| Section 58: | Conduct of Hearings | 47 |
| Section 59: | Reserved | 47 |

A. **Article Permits**

| | | |
|-----------------|----------------------------------|----|
| Section 60: | Building Permits | 48 |
| Section 61: | Mobile Home Installation Permits | 48 |
| Section 62: | Site Plan Review Certification | 48 |
| Section 63: | Sign Permits | 49 |
| Section 64: | Home Occupation Permits | 49 |
| Section 65: | Conditional Use Permits | 50 |
| Sections 66-70: | Reserved | 52 |

A. **Article Variances and Beneficial Use Determinations**

B.

| | | |
|-----------------|-------------------------------|----|
| Section 71: | Variances | 52 |
| Section 72: | Beneficial Use Determinations | 54 |
| Sections 73-74: | Reserved | 56 |

A. **Article Amendments and Appeals**

B.

| | | |
|-------------|------------------------------------|----|
| Section 75: | Amendment of this Zoning Ordinance | 56 |
| Section 76: | Appeals | 57 |
| Section 77: | Reserved | 59 |

Article I. Enforcement and Violations

| | | |
|-------------|-------------|----|
| Section 78: | Enforcement | 59 |
| Section 79: | Violations | 61 |

Table 1-Uses for Districts

Table 2 - Hazardous Materials Stockpile Definition

Table 3-Procedural Chart

ARTICLE A: GENERAL PROVISIONS

SECTION 1: TITLE AND INTENT

- 1.1 This Ordinance shall be known and may be cited as the Village of Milan Zoning Ordinance.
- 1.2 The intent of this Ordinance is to promote and protect the public health, safety, peace, comfort, convenience and general welfare for the Village and for the following particular purposes:
 - 1.2.1 to improve the appearance of the Village and its neighborhoods;
 - 1.2.2 to protect and improve the established and future use and to promote the social and economics stability of existing and future commercial, residential and other lands within the Village;
 - 1.2.3 to promote good planning practices and to provide a regulatory mechanism which is flexible and reasonably easy for the public to understand while including a development review process and development standards which are clear and straightforward;
 - 1.2.4 to prevent the adverse impacts of uncontrolled development on the availability of water, water quality, roads, improvements and services within the Village;
 - 1.2.5 to extend greater opportunities for community living, working, housing, and recreation for all residents of the Village;
 - 1.2.6 to encourage a more efficient use of land and public services;
 - 1.2.7 to promote land development practices which will enhance the public health, safety and general welfare of the Village; and
 - 1.2.8 to meet and achieve those objectives for a municipal zoning ordinance as set forth in § 3-21-5 NMSA 1978.

SECTION 2: AUTHORITY

- 2.1 This Ordinance is adopted pursuant to the Village's authority as set forth and contained in §3-21-1 through 3-21-26 NMSA 1978 which authorizes municipalities to adopt and enforce zoning ordinances.
- 2.2 Whenever any provision of this Ordinance refers to or cites a section of the New Mexico Statutes and that section is hereafter amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section

that most nearly corresponds to the superseded section.

SECTION 3: JURISDICTION AND APPLICATION

- 3.1 This Ordinance is intended to apply to all lands, buildings and structures within the incorporated areas of the Village as such areas now exists or shall exist in the future.
- 3.2 This Ordinance is not applicable to federal activities on federally-owned lands where the federal government has retained such right. This Ordinance is also not applicable to the State of New Mexico activities on state-owned lands. However, private activities or development for private purposes on such lands shall be subject to this Ordinance.
- 3.3 All property within the Village is governed according to the District in which it is located. Any use not designated a permissive or conditional use in a District is specifically prohibited in that District absent the granting of a variance or as herein provided.
- 3.4 Property that is annexed into the corporate limits of the Village shall be initially included as an Agricultural/Residential District (A-R), unless a property owner submits an application for a different District and such different zoning is granted or the Village otherwise chooses to designate the property as a different District.
- 3.5 The approval of a District, a zone amendment or a specific development does not necessarily obligate the Village to provide water or sewer service to such area.

SECTION 4: INTERPRETATION AND CONFLICT

- 4.1 The regulations set forth in Ordinance include the minimum standards necessary to carry out the purposes of this Ordinance. More stringent provisions may be required if it is demonstrated that different standards are necessary to protect the public health, safety, and general welfare within the Village. This Ordinance is not intended to interfere with, abrogate or annul any existing easement, covenant or other valid ordinance. However, where the provisions of this Ordinance conflict with other rules, regulations, easements, covenants or Village resolutions, the provisions of this Ordinance shall be controlling unless otherwise provided by specific provision of an ordinance.
- 4.2 Unless a different intent is indicated herein or in an adopted Village plan, uses allowed under the terms of this Ordinance shall be understood to be allowed within structures only if the structures are constructed according to the Uniform Building Code and any other codes as adopted by the State of New Mexico or by the Village as of the date of the structure's construction.
- 4.3 Where uncertainty exists as to the boundaries of any of the Districts as shown on the Map, the following rules of interpretation shall apply.

- 4.3.1 Lands not included within the boundaries of any District shall be deemed Agricultural/Residential.
- 4.3.2 Where boundary lines are indicated by a Street and Alley, it shall be construed as following the Centerline thereof.
- 4.3.3 Where District boundaries are indicated by approximating existing lot lines, such lines shall be construed to be such boundaries.
- 4.3.4 Where a District boundary divides a lot, the location of such boundary shall be determined by use of the scale appearing on the Map, unless the boundary is indicated by dimensions.
- 4.3.5 In case of further uncertainty the Commission may determine (subject to Board review) the specific location of such boundaries.

SECTION 5: RELATIONSHIP TO EXISTING ZONING

- 5.1 To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions which they replace in the Village's zoning enforcement, they will be considered continuations thereof and not as new enactments unless specifically so provided. In particular, a situation that did not constitute a lawful, non-conforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this Ordinance merely by the repeal of the previous ordinance.

SECTION 6: NO USE OR SALE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH THE PROVISIONS OF THIS ORDINANCE

- 6.1 Subject to the provisions of Section 32 hereof, no person may use, occupy or sell any land or buildings or authorize or permit the use, occupancy or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.
- 6.2 For the purposes of this section, the use or occupancy of a Building or land relates to anything and everything that is done to, on, or in that Building or land.

SECTION 7: SEVERABILITY

- 7.1 If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 8: REPEAL AND SAVINGS CLAUSE

- 8.1 Ordinance No.76-A, and Ordinance 206, and all amendments thereof, including

the Official Zoning Maps adopted at those times, or thereafter, are hereby repealed, except as to any pending administrative, enforcement or other legal proceedings based thereon and except as provided in Section 5.1 hereof. Provisions of the earlier enactments shall remain in effect for such purposes only during the pendency of such proceedings and until their final disposition. Subject to the foregoing all other ordinances in conflict with the provisions of this Ordinance or at variance with the requirements of this Ordinance are hereby repealed.

SECTIONS 9-15: RESERVED

B. ARTICLE DEFINITIONS AND WORD CONSTRUCTION

SECTION 16: WORD CONSTRUCTION

16.1 Unless otherwise expressly stated, the following terms shall, for the purposes of the Ordinance, have the meaning herein indicated. Words used in the present tense include the future; and words in the singular include the plural. The word "building" includes the word "structure", and the word "shall" is mandatory while the word "may" is permissive. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual both masculine and feminine.

SECTION 17: DEFINITIONS

Accessory Building- A detached subordinate building, the use of which is incidental to that of the main building on the same lot, or the use of the land of the same lot.

Accessory Dwelling Unit - A second unit on a parcel occupied as a single family residence, equipped with kitchen facilities, attached to the main building and designed for use in conjunction with the main residence.

Advertising - Any announcement, description or presentation calling public attention to goods or services offered sale or lease.

Agriculture - Farming, dairying, pasturage, apiaries, horticulture, floriculture, viticulture and animal or poultry husbandry, but agriculture does not include the commercial feeding of garbage to swine or other animals.

Alley - A public access driveway or lane which provides a secondary means of access to abutting property.

Animal Hospital- A facility providing medical care for small and/or large animals and may include the boarding the animals for such purposes.

Apartments - A multi-family dwelling in which the three (3) or more units of which are

available or are rented.

Bed and Breakfast Establishment - A residential structure used as a lodging establishment in which the manager is an occupant in the structure and receives compensation in exchange for providing overnight or longer but temporary sleeping accommodations which accommodations contain no cooking facilities.

Billboard - A sign, other than a small directional sign, which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a place other than on the parcel where the sign is erected.

Board - The Board of Trustees for the Village.

Buffering - The on-site use of landscaping elements, screening, fencing, open space and landforms for reduction of the potentially adverse impacts of adjoining dissimilar land use.

Buildable Area - The area of a lot excluding the set back areas.

Building - A structure having a roof, walls and intended for housing or shelter for persons, animals or goods.

Building Height - The vertical distance measured from the average finished soil grade at the base of the exterior wall to the highest point of the roof, ridge, or parapet wall of the Building.

Building Site - The land area of a Lot, which may be occupied by the permitted Building.

Business - A commercial entity operating in the Village with an approved business license.

Carport - A shelter for one (1) or more automobiles which is not enclosed.

Centerline - A line halfway between the exterior street lines.

Clinic - A facility occupied by one or more members of the medical or dental or other licensed health service professions for the principal purpose of providing such health services.

Club- Any membership organization catering exclusively to members and their guests and whose facilities are limited to meeting, eating, social and/or recreational uses and further whose activities are not conducted for profit including but not limited to civic, fraternal, charitable, religious, social and patriotic organizations.

Clustering - The practice of grouping residential units within a close proximity and utilizing the surplus land thus saved for common space, landscaping, recreation, or

similar uses.

Code Enforcement Officer (CEO) - The individual(s) as designated by the Village to monitor, enforce and administer this Ordinance.

Commercial Garage - Any building or structure where automobiles, trucks, tractors, or other vehicles are stored, painted, repaired, or equipped for a charge, and where the service and sale of gasoline and oil are incidental to their principal building use.

Commission - The Planning and Zoning Commission of the Village of Milan.

Conditional Use - A land use specifically identified in this Ordinance as being conditionally acceptable in a given District but which use must be first reviewed and approved by the Commission.

Condominium - A distinct unit, under separate ownership, which is a portion of a multi-unit building or development in which individual ownership includes an interest in certain common areas.

Contiguous - Touching or, if not, then separated only by an Alley or Street.

Corner Lot- Any lot located at the intersection of and having frontage on two or more streets.

Day Care Center - A facility in which the primary use is the provision of childcare services if done in accordance with the applicable laws and regulations of the State of New Mexico.

District - Any section of the Village with generally common regulations governing the type of buildings and premises or the height and areas of buildings and lot sizes and uses and generally as shown on the Map.

Double Frontage Lot - The boundary of a lot bordering on two (2) Streets. For the purpose of determining setback requirements on Corner Lot and double frontage lots, all sides bordering on a Street shall be considered as the front.

Duplex Residential Unit - A building arranged, intended or designed to be occupied by two (2) families living independently of each other and having separate cooking facilities in each dwelling unit.

Family - An individual or two (2) or more persons related by blood or marriage or a group of not more than five (5) persons who need not be related by blood or marriage, living together as a single housekeeping unit, as distinguished from a group occupying a Hotel or Motel.

Farm - An area which is used for the growing of the usual farm products such as

vegetables, fruit, fodder, trees and grain and the storage of the same on the area.

Fence - Any structure made of wood, metal, masonry, shrubbery or other material forming a physical barrier which supports no load other than its own weight and which is designed to delineate, screen or enclose a field, yard, Lot or other land area.

Floor Area - The gross horizontal area of the total number of floors of a Building.

Floor Area Ratio - The relationship of the Floor Area to the lot area computed by dividing the Floor Area by the Lot area.

Front Lot Line - The property line along a Lot's street frontage.

Front Yard - The required setback extending across the front of the Lot between the Side Lot Lines and measured from the Front Lot Line to the front setback line.

Frontage- The distance along a street line from one intersecting street to another or from one intersecting street to the end of a dead-end street. Lot frontage is the width of a Lot measured along a Street.

Garage- An enclosed structure which supports no load other than its own weight and which is designed to enclose one (1) or more vehicles.

Grade - The average of the finished ground level at the center of a wall of a building.

Home Occupation - An occupation or business in a dwelling in Districts A-R, R-1 or R-2.

Hospital - A facility where sick or injured persons are given medical care and which has the capacity for overnight accommodations.

Hotel - Any Building, portion of a Building, or group of Buildings containing guest rooms which are designed, used or intended for use for the accommodation of overnight or temporary lodging.

Junkyard - An area of one hundred (100) square feet or more used for storage or dismantling of junk, scrap metals and materials salvaged from wrecked or demolished buildings, automobiles, machinery or equipment.

Laundromat - A place where patrons wash, dry or dry clean clothing in machines operated by the patron.

Livestock - Any domestic livestock including but not limited to horses, cattle, goats, swine, sheep and fowls.

Lot - A parcel of land platted and placed of record in accordance with state laws and

local ordinances, held in separate ownership and used or capable of being used under the regulation of this Ordinance and including all required yards.

Lot Area - The total aggregate lot area measured to its property lines.

Lot Depth - The average distance between the front and rear lot lines measured along the mean direction of the Side Lot Lines.

Lot Width - The narrowest distance between the two (2) Side Lot Lines.

Manufactured Homes - Multi-section manufactured homes as must be allowed in Districts otherwise allowing single-family, site-built housing pursuant to §3-21A-3 NMSA 1978.

Map - The official Planning and Zoning Map for the Village as is amended or supplemented from time to time. Until and unless amended, the Map as adopted when this Ordinance was approved and adopted shall constitute the Map as herein referenced.

Mobile Home - A movable or portable housing structure as defined by §60-14-2(M) NMSA 1978.

Mobile Home Park - A parcel of land capable for the continuous accommodation of twelve (12) or more occupied mobile homes and operated directly or indirectly for financial benefit of the owner of the parcel of land.

Mobile Home Space - A parcel of land within a Mobile Home Park designated by the management to accommodate one (1) Mobile Home and its accessory buildings and to which the required sewer and utility connections are provided by the Mobile Home Park.

Mobile Home Subdivision - A parcel of land, five (5) acres or more in size, which is subdivided into lots individually owned and utilized as the sites for placement of individual mobile homes.

Motel - A building or group of buildings on the same lot, containing guest rooms, used or designed for the accommodation of overnight lodging on a commercial basis, which are each independently accessible from the outside.

Multiple Family Dwelling - A building or structure designed and intended to be occupied as living quarters by three (3) or more families, living independently of each other and each having separate cooking and bathroom facilities.

Non-Conforming Lot - A lot existing on the effective date of this Ordinance or amendment to this Ordinance whose dimensions does not conform to the District within which it is located.

Non-Conforming Building - A building or structure or portion thereof which does not conform to the property development standards of this Ordinance for the District in

which it is located.

Non-Conforming Use - A utilization or occupancy of any site utilized or occupied on the effective date of this Ordinance or amendment to this Ordinance, which is not now a permitted use for the District in which it is located.

Park - A playground, swimming pool, athletic field or open space under the control and maintained by the Village.

Parking Lot- An area of land or a lot legally used for and designed for access and parking by standard motor Vehicles.

Parking Space - Space which is laid out for and used or designed to be used for a single standing vehicle.

Planning Administrator - The person or his/her designee charged by the Village with the responsibilities as enumerated herein or hereafter.

Premises - Any lot or combination of contiguous lots held in single ownership, together with all development thereon.

Rear Lot Line - The lot boundary line which is opposite and most distant from and not coterminous with the Front Lot Line.

Rear Yard - The required setback area extending across the full width of the Lot and measured between the Rear Lot Line and the Rear Setback Line.

Recreational Vehicle - A vehicle with a camping body that either has its own motive power or is drawn by another vehicle.

Religious Institution - A building which is used primarily for religious worship and/or related religious activities.

Residence - A building used as a residence.

Residential Care Home - A resident occupied dwelling, licensed as required by the State of New Mexico, in which children and/or adults are cared for on a full-time, live-in basis.

Retaining Wall - A wall designed to contain soil on one side of the wall which soil is at a higher elevation than that on the other side of the wall.

School - An institution of learning whether public or private.

Setback Line - A line established by this Ordinance to govern the placement of a building or a structure with respect to its Lot boundary lines.

Shopping Center - A commercial center having at least four (4) distinct business occupants.

Side Lot Line - Any Lot boundary line not a Front Lot Line or a Rear Lot Line.

Side Yard - The area between the side lot line and the Side Setback Line and extending from the Front Lot Line to the Rear Lot Line.

Signs

Temporary Sign- A sign, usually constructed of light materials, displayed for a total of thirty (30) days or less.

Area Sign - The entire area of a sign within a single continuous perimeter enclosing the writing, representation, emblem, or any figure of similar characters.

Attached Sign - A sign, which is affixed to and made an integral part of a building or structure. Attached signs may include wall signs, roof signs, and projecting signs.

Double-faced Sign - A sign designed to be viewed from two (2) different directions.

Freestanding Sign- A sign which is wholly or partly supported by a structural element which is not an integral part of a building. Portable signs and sign on fences shall be considered freestanding signs.

Height Sign - The vertical distance from the soil level of the surrounding area to the highest point of the sign or any vertical projection.

Identification Sign - A sign which is limited to the name, address and telephone number of a business, institution or person and to the activity or product carried on in the business or institution or the occupations of the persons as are located therein.

Monument Sign - A low profile, freestanding sign seven (7) feet or less in height.

Non-Conforming Sign - A sign, which was lawfully erected but does not comply with this Ordinance due to annexation of the property to the Village, or due to an amendment to this Ordinance.

Off-Site Sign- A sign, such as a billboard, which is not located on the same parcel of land as the entity or product it advertises.

Political Sign - A sign which is intended to influence the vote for the passage or defeat of a measure or the nomination, election or defeat of a candidate in any

government election.

Projecting Sign - A sign erected on the wall of a building or structure, or suspended from an overhang, with display surfaces generally not parallel to the wall.

Roof Sign- An attached sign erected on a roof or projecting above the eave of the building.

Wall Sign - A sign erected on a wall or fascia to a building or structure, the face of which is parallel to the wall or fascia.

Window Sign- A sign which is displayed in or through a window and is visible from a street, walkway or parking lot.

Single Family Dwelling - A building designed for occupancy by one (1) family.

Sound Wall Fence - A wall fence, constructed of materials such as concrete block, brick, stone, concrete, steel or stucco, designed to reduce the level of nearby sound.

Street - a thoroughfare that is wider than an alley or lane and usually includes sidewalks.

Structural Alterations - Any change in the supporting members of a building, such as bearing walls, columns, beams, girders, floor joists, ceiling joists or roof rafters.

Structure - Anything constructed or erected upon the ground or attached to such construction having location on the ground, but excluding swimming pools and uncovered paved areas such as patios and parking lots.

Townhouse - A condominium dwelling unit, which is the sole dwelling unit on a separate parcel of land, with no dwelling units above or below.

Trailer - A vehicle without motive power with dimensions not exceeding any of the following: forty (40) feet in overall length, eight (8) feet in width and twelve (12) feet overall height.

Recreational Vehicle Campground- Any lot, tract, or parcel of land licensed and used or offered for use in whole or part, for the parking of occupied travel trailers, pickup campers, converted buses, recreational vehicles, tent trailers, tents or similar devices used for temporary portable housing and used solely for living and/or sleeping purposes but not to be utilized for more than one hundred and eighty (180) continuous days by any one guest or tenant.

Unit - A single Building inclusive of a Single Family Dwelling.

Variance - A relaxation of the terms of this Ordinance where such variance 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 Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance may be authorized only for use, area, height, dimension, distance, setback, off-street parking, and off-street loading requirements.

Village - The Village of Milan and when used in the context of requiring action or approval shall mean the Board acting in its official capacity.

Wire Mesh Fencing - Fence material which derives its strength from metal strands crossing in a regular pattern, including, but not limited to, those materials known as chain link or chicken wire, but not including ornamental wrought iron fencing.

Xeriscape - A type of landscaping utilizing native plants and ground cover which needs little maintenance or water.

Yard - An open space, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the ground upward except as otherwise provided in this Ordinance.

SECTION 18-20: RESERVED

B.ARTICLE ZONING DISTRICT REGULATIONS

SECTION 21: DESIGNATION AND ESTABLISHMENT OF DISTRICTS

21.1 The following zoning districts are hereby designated and established by this Ordinance:

Agricultural/Residential District (A-R)

Single Family Residential District (R-1)

Mixed Residential District (R-2)

Community Commercial District (C-1)

Highway-Oriented Commercial District (C-2)

Industrial District (M-1)

Public/Institutional District (P-1)

Planned Development District (P-D)

21.2 The Map which delineates the above described zoning districts, is declared a part

of this Ordinance and shall constitute the official description of the location and boundaries of each District in the Village.

SECTION 22: AGRICULTURAL/RESIDENTIAL DISTRICT (A-R)

22.1 Purpose. The purpose of the A-R District is to provide suitable areas for Agriculture uses and related activities which support Agriculture as well as low density residential uses that are compatible with a rural area. The land uses as permitted in the A-R District are those as are shown and enumerated in Table 1 of this Ordinance.

22.2 Site and Building Requirements:

22.2.1 Minimum Lot Area: one (1) acre

22.2.2 Minimum Lot Width: 100 feet

22.2.3 Minimum Required Yard Depth: Front Yard -25 feet
Side Yard - 10 feet
Rear Yard -25 feet

22.2.4 Maximum Building Height: 35 feet.

Exceptions to the above height limit are silos, chimneys, cooling towers, water tower or tanks, flagpole or antennas as are usually required to be placed above the roof level and not intended for human occupancy. Religious institutions, Hospitals and public institutions may also exceed the height limit but all structures exceeding the height limit shall be set back from each yard or lot line at least one foot for each additional one (1) foot in height above the maximum requirement.

22.3 Clustering may be permitted but with a limit of an average net density of one Unit per acre.

22.4 **Keeping of Livestock on parcels designated A-R within the current Village limits shall not be permitted except by Conditional Use permit.**

SECTION 23: SINGLE FAMILY RESIDENTIAL DISTRICT (R-1)

23.1 Purpose. The purpose of the R-1 District is to provide areas within the Village which may be used for single family dwelling and low density clustering. The land uses and development requirements with the District are designed to enhance and protect the residential neighborhoods within the Village. The land uses permitted in this District are those as are enumerated in Table 1 of this Ordinance. Mobile homes are not permitted in this district. Manufactured homes are permitted but must be reviewed by the Board to determine whether they qualify under §3-21A-3 NMSA 1978..

23.2 Site and Building Requirements.

23.2.1 Minimum Lot Area: 6,000 square feet

23.2.2 Minimum Lot Width: 60 feet

23.2.3 Minimum Required Yard Depth: Front Yard -20 feet
Side Yard-5 feet, except on a corner lot where the minimum on the street side must be 10 feet
Rear Yard - 15 feet

23.2.4 Maximum Building Height: 35 feet

23.3 Any structure requiring water and sewer shall be connected to the public water and sewer system. Individual septic systems and wells will not be permitted.

SECTION 24: MIXED RESIDENTIAL DISTRICT (R-2)

24.1 Purpose. The purpose of the R-2 District is to allow a mixture of housing types and higher residential densities within the Village. This District allows mobile homes, duplexes, apartments, and townhouses in addition to the single family dwelling units as permitted in the R-1 District. The land use permitted in this District are those as are enumerated in Table 1 of this Ordinance.

24.2 Site and Building Requirements:

24.2.1 Minimum Lot Size: 6,000 square feet

24.2.2 Minimum Lot Width: 60 feet

24.2.3 Minimum Required Yard Depth: Front Yard - 20 feet
Side Yard - 5 feet, except on a corner lot where the minimum street side must be 10 feet
Rear Yard - 15 feet

24.2.4 Maximum Building Height: 45 feet

SECTION 25: COMMUNITY COMMERCIAL DISTRICT (C-1)

25.1 Purpose. The purpose of the C-1 is to allow for locations for those commercial activities that serve the general community on a regular basis. Pedestrian oriented development is encouraged to facilitate more opportunities for community interactions and socializing. Some types of residential development are also permitted which are conducive to the mixture of the land uses in this area. The

land uses permitted in this District are those enumerated in Table 1 of this Ordinance.

25.2 Site and Building Requirements:

- 25.2.1 Minimum Lot Size: none
- 25.2.2 Minimum Lot Width: none
- 25.2.3 Minimum Yards: none, except where the site is Contiguous to a residential district, then the setback requirements of the residential district shall apply.
- 25.2.4 Maximum Building Height: 45 feet

SECTION 26: HIGHWAY COMMERCIAL DISTRICT (C-2)

26.1 Purpose. The purpose of the C-2 District is to provide areas conveniently situated near interstate highway (Interstate 40) to serve the traveling public and to encourage travelers to visit the Village. The District is the entryway into the Village, and its design should be pleasing and entice travelers to visit the Village. Ample parking, landscaping and creative design are encouraged in this District. The land uses permitted in this District are those enumerated in Table 1 of this Ordinance.

26.2 Site and Building Requirements:

- 26.2.1 Minimum Lot Size: none
- 26.2.2 Minimum Lot Width: none
- 26.2.3 Minimum Yards: Front Yard-20 feet if adjacent to a Street. If the property is contiguous to another District, the side and rear yard depths shall match the setback required of the adjacent District (if the requirements are greater).
- 26.2.4 Maximum Building Height: 75 feet

SECTION 27: INDUSTRIAL DISTRICT (M-1)

27.1 Purpose. The purpose of the M-1 District is to provide areas in the Village suitable for manufacturing, assembly, storage, distribution and wholesaling of

materials. Because of their environmental impacts, it is intended that this District be located in areas which will avoid conflict with more sensitive land uses, and shall be located in areas with good transportation access. The land uses permitted in this District are those enumerated in Table 1 of this Ordinance.

27.2 Site and Building Requirements:

27.2.1 Minimum Lot Size: 10,000 square feet

27.2.2 Minimum Yards: Front Yard - 30 feet
Side Yard - 10 feet but if side yard is adjacent to street - 20 feet
Rear Yard - 10 feet

27.2.3 Maximum Building Height: 45 feet

27.3 Activity Standards: All activities shall be conducted in such a manner that noise, smoke, dust, odors and waste of any kind are confined and/or purified so as to control pollution of air, soil, or water, to eliminate any detrimental effect to the public health, safety, welfare and to be otherwise in harmony with the objectives of this Ordinance.

27.4 Illumination: Illumination of sign, facades, buildings, parking areas and loading facilities shall be arranged or shielded so as to eliminate glare to roadways and Streets and shall be directed away from properties lying outside the District.

27.5 Manufacturing/Storage Areas: All manufacturing and fabrication operations shall be conducted entirely within buildings. All equipment and material storage areas shall be screened by solid walls, fences or adequate landscaping not less than six (6) feet in height.

27.6 Abutting Districts: Whenever a site is contiguous to a R-1, R-2, C-1, C-2, or P-1 District, a five

(5) foot in height and full width landscaped Buffering shall be permanently maintained.

SECTION 28: PUBLIC/INSTITUTIONAL DISTRICT (P-1)

28.1 Purpose. The purpose of the P-1 District is to provide for an area for governmental, public utility, educational and community service or recreational facilities. Such uses are unique in that their proximity to sensitive land uses is not generally detrimental to the quality of life, and in many cases is desirable and convenient. The land used permitted in this District are those enumerated in Table 1 of this Ordinance.

28.2 Site and Building Requirements:

28.2.1 Minimum Lot Size: none

28.2.2 Minimum Yards: The minimum front, side and rear yards shall be equal to the respective front, side, and rear yards required in the most restrictive contiguous district.

SECTION 29: PLANNED DEVELOPMENT DISTRICT (P-D)

29.1 Purpose. The purpose of the P-D District (a floating district) is to provide for the future development of large tracts of land that will allow flexible design and ownership patterns. The major purposes of this District are to:

29.1.1 Implement the objectives of the Village's Comprehensive Plan;

29.1.2 Encourage variety and amenities normally not provided in smaller development projects;

29.1.3 Conserve desirable natural and historical features;

29.1.4 Reduce, when appropriate, the degree of public and private improvements normally required by developments; and

29.1.5 Provide appropriate public and private open spaces.

29.2 Location and Site Area. A P-D District may be located in an area of the Village provided that the site area is of sufficient size, but in no case shall it be less than one (1) acre.

29.3 Modification of Code Requirement. A P-D District may require a re-zoning

application and public hearing as provided in Section 76 hereof. In approving the P-D District, the Village may make modifications to zoning requirements pertaining to setbacks and other development standards contained herein if the following findings are made:

- 29.3.1 The P-D District as proposed will result in a significantly better environment;
 - 29.3.2 The P-D District is compatible with and has meaningful relationship to the neighborhood in which it is located;
 - 29.33 The P-D District will not result in significantly adverse environmental impacts; and
 - 29.3.4 The P-D District is in accord with the objectives of the Village's Comprehensive Plan.
- 29.4 In considering whether the preceding findings can be made, the following elements will be considered:
- 29.4.1 Quantity and quality of natural open space areas, retention of significant natural areas, prominent features of the land and existing vegetation.
 - 29.4.2 Quantity and quality of usable open space areas.
 - 29.4.3 Site design factors such as the building orientation and clustering building coverage, balance between individual buildings and overall variety design of pedestrian and vehicular circulation, design of parking and landscape design.
- 29.5 Dedication of Open Space and Street. Open space areas and/or street to be preserved or created in the P-D District may be required to be dedicated to the Village as a permanent open space and as a public right-of-way or may be required to be permanently reserved by dedication of a visual open space easement across certain portions of the property.

SECTION 30: USE TABLE FOR ALL DISTRICTS

- 30.1 Tablet 1 as attached hereto enumerates various land uses and demotes those uses which permitted as a matter of right, those which may be conditionally permitted or which may be issued a temporary use permit. All uses permitted as a matter of right must comply with the all applicable Building and Lot restrictions contained in this Ordinance.

SECTION 31: RESERVED

ARTICLED: REGULATIONS APPLYING TO ALL DISTRICTS

SECTION 32: NON-CONFORMING USES, BUILDINGS AND PARCELS

- 32.1 Any use of a building or land at the effective date of this Ordinance, or of subsequent amendments to it, that does not conform to the regulations shall be deemed to be a non-conforming use and may not be continued, except as otherwise provided herein. Any Building lawfully existing at the effective date of this Ordinance, or as of the date of subsequent amendments to the Ordinance, that is wholly or partially used, or designed for use, contrary to the regulations, shall be deemed to then be a non-conforming Building and may so used or continue in such use. Any Building for which a permit has been lawfully granted prior to the effective date of the Ordinance, or of subsequent amendment to it, must be completed in accordance with the approved plans; provided that actual construction is started with two (2) months of the date of issuance of the permit and diligently executed until its completion. The term actual construction for the purposes of this Section is intended and shall be construed to mean the performance of any meaningful work or labor on the construction of the building, the effect of which is apparent upon the building site. Such building shall thereafter be deemed to be a lawful existing non-conforming building.
- 32.2 A variance will be granted to permit the continuation of any building, structure, improvement or premises existing immediately prior to the time this Ordinance or any amendment to it become effective, if such existing building, structure, improvement or premises was not previously in violation of any other ordinance, regulation or law.
- 32.3 This Section does not authorize the extension, expansion or enlargement of an existing non-conforming building, structure, improvement or premises except as provided below.
- 32.3.1 The proposed extension, expansion or enlargement is limited to a maximum of twenty-five percent (25 %) of the gross floor area of the non-conforming building;
- 32.3.2 The proposed extension, expansion or enlargement will not adversely impact adjoining properties; and.
- 32.3.3 The proposed extension, expansion or enlargement will comply all applicable building codes requirements and other applicable State and/or Federal requirements.
- 32.4 Nothing in this Ordinance shall be construed to prevent the restoration and resumption of a formerly lawful use of any Building that is damaged or partially destroyed by fire or other calamity, or by an act of God, to the extent it requires seventy-five (75 %) percent or less in restoration; provided that such restoration is

started within one (1) year after such damage and diligently pursued to completion. A non-conforming Building that is completely destroyed or damaged or partially destroyed in any of the above manner to a greater extent than seventy-five (75 %) percent, or voluntarily razed or required by law to be razed, shall not thereafter be restored except in full conformity with all the provisions of this Ordinance as to the Building and its use. The amount of the destruction shall be calculated by taking seventy-five (75 %) percent of the value of the improvement destroyed against its fully assessed value, as such value is shown for the improvement on the current assessment roll for Cibola County.

- 32.5 Pre-existing, non-conforming uses as otherwise permitted herein are permitted to continue. No change in the type, scale or intensity of the use is permitted.
- 32.6 A non-conforming use which has been abandoned or discontinued for one (1) year or longer shall not be allowed to resume except in conformity with the applicable requirements of this Ordinance.
- 32.7 A parcel which has less area or width than required in the zone applicable to the parcel may be used as a separate parcel for a use permitted within the zone if:
 - 32.7.1 The parcel was legally created and placed on the records of Cibola County prior to the effective date of this Ordinance and complies with any ordinances, regulations or requirements then applicable;
 - 32.7.2 The use and structure have previously been permitted or are legally non-conforming, or if it is a new use or a new construction, it will have a use which is the use, which most nearly meets lot and width requirements;
 - 32.7.3 Keeping of any animals on parcels which do not meet the minimum lot size requirements specified herein are not permitted; and
 - 32.7.4 The use or construction is approved by the Commission.

SECTION 33: HOME OCCUPATIONS

- 33.1 The purpose of this section is to encourage and facilitate businesses conducted in the home, but which businesses are compatible with other homes on the adjacent properties.
- 33.2 Businesses conducted within homes shall qualify as permissible home occupations if they meet the following standards:
 - 33.2.1 Primary sale of goods or services in connection with such home occupation shall generally (but not necessarily limited to such goods and services) be that which is prepared, performed, produced or grown on the premises;

- 33.2.2 The goods, stock-in-trade, or other commodities are not displayed outside the residence;
 - 33.2.3 The home occupation shall not be of a nature likely to generate traffic in larger numbers than would normally be expected in just such a dwelling;
 - 33.2.4 No more than two (2) other persons, in addition to the members of the family, are employed in connection with the home occupation;
 - 33.2.5 No objectionable operational characteristics or effect, including noise, odor, fumes, dust, lighting, vibration, electrical disturbance, and smoke discernible from the exterior boundaries of the lot site which would identify the premises as serving a non-residential purpose shall be allowed;
 - 33.2.6 No more than twenty-five percent (25%) of the total gross floor area of the dwelling be used for home occupation purposes nor more than six hundred (600) feet for any Accessory Building shall be so utilized;
 - 33.2.7 No change is made in the outside appearance of the building or premises, which is not of a residential character other than one (1) sign so stating the name and nature of the business which is not more than four (4) square feet and is not illuminated;
 - 33.2.8 No show windows, window displays or advertising on signs, structures or vehicles on or near the site designed to attract customers, clients or the general public to the premises; and
 - 33.2.9 Adequate off-street parking as consistent with the nature of the business conducted is provided.
- 33.3 An application for a home occupation may be submitted to the Village and then may be administratively approved by the Commission, if it satisfies the standards contained herein. The Planning and Zoning Administrator shall then issue a home occupation permit to the applicant, if the application is approved, upon payment of the applicable business license fees. No such permit shall be required for a child care service if five (5) or less children are cared for in total.
- 33.3.1 If the application does not satisfy the standards contained herein, the Board shall deny the application for a home occupation permit.

SECTION 34: TEMPORARY USE PERMITS

- 34.1 Certain temporary uses of property may be permitted in any District, and the permit may be made contingent upon such conditions and time limitations are reasonably necessary to protect the public welfare. The violation of any such

condition imposed shall be grounds for the revocation of the permit. The CEO may require guarantees to assure removal of any structures or improvements incident to the temporary use and of any debris or refuse resulting from such use so as to completely restore the premises to the prior condition.

- 34.2 Temporary buildings and uses incidental to the construction of a building or group of buildings on the same or adjacent premises, may be permitted in any District, where the use of such temporary buildings conforms to uses permitted in such District.
- 34.3 Permits for outdoor yard or garage sales may be granted and merchandise may be displayed on any sidewalk or private property but such sales shall be restricted to a minimum of five (5) days per sale and no more than six (6) sales per year.
- 34.4 In addition, any of the following uses may be permitted, subject to a specific time limit not to exceed thirty (30) days:
 - 34.4.1 Neighborhood bazaar, celebration or festival in any district, when sponsored by an organized group;
 - 34.4.2 Open-air sale of Christmas trees or
 - 34.4.3 Other temporary outdoor sales that meet all other conditions of this Ordinance and where the CEO determines that no safety or health hazards will result from the proposed temporary use.

SECTION 35: LANDSCAPING, BUFFERING AND SCREENING

- 35.1 The intent of this Section is to improve adverse impacts between potentially incompatible uses including uses of different districts which may abut or be generally be adjacent by requiring a certain level of buffering and screening. The purposes of this Section include:
 - 35.1.1 to reduce irrigation water consumption with no decline in landscape quality;
 - 35.1.2 to reduce the heat and glare absorbed and radiated by any development and improvements;
 - 35.1.3 to control soil erosion;
 - 35.1.4 to preserve property values and the character of neighborhoods; and
 - 35.1.5 to encourage the use of xeriscape.
- 35.2 Required Fencing.

35.2.1 Commercial and industrial development abutting any residential zone shall install a sound wall fence six (6) feet high. However, such fencing shall not extend into the required front yard area if the property is adjacent to a residential zone.

35.2.2 Other than short-term storage, all storage of building materials, junk, scrap, or waste shall be screened from public view with a solid fence six (6) feet high or landscaped berm.

35.3 Location and Height

35.3.1 Residential Districts. Except in the following situations, fences and hedges in residential districts are permitted up to six (6) feet in height, measured from the finished grade on the higher grade side of the fence but subject to the following additional provisions:

- A. Fences or walls higher than four (4) feet above the center elevation of the street shall be set back at least fifteen (15) feet from the Front Lot Line;
- B. On a corner lot, fences, hedges or visual obstructions over four (4) feet above the sidewalk shall be at least five (5) feet back from the Side Lot.
- C. Fences, hedges or other visual obstructions shall not be over four (4) feet high above the center elevation of the street on a corner lot within a triangle formed by the property lines and a line connecting those lines from points thereon which lie twenty (20) feet from the intersection of two (2) property lines;
- D. Fences or walls within the Buildable Area are permitted up to eight (8) feet in height; and
- E. Fences immediately adjacent to Alleys are permitted up to seven (7) feet in height.

35.3.2 Commercial and Industrial Districts. Except in the following situations, fences and hedges in commercial or industrial districts are permitted up to six (6) feet in height, measured from the finished grade on the higher grade side of the fence.

- A. Fences or walls higher than four (4) feet shall not be built within any required front setback.
- A. Fences, hedges or other visual obstructions shall not be over four (4) feet high above the curb on a corner lot within a triangle formed by the property lines and a line connecting those lines from points thereon which lie twenty (20) feet from the intersection of two (2) property lines.
- B. Fences or walls within the building areas as required for a main building are permitted up to twelve (12) feet in height, except when property is abutting any residential zone.

35.4 Prohibited Materials

35.4.1 Barbed wire, razor wire or similar fences shall not be installed within the Village except for security fences in the M-1 District which are not visible from any public street or alley.

35.4.2. Electrified fences of any kind shall not be installed within the Village.

35.4.3. Wire mesh fencing shall not be installed within the required front yard setback area or within the side yard setback area adjacent to a street in the R-1 or R-2 Districts. Wire mesh fencing in the commercial zones shall not be visible from any public street or alley.

35.5 Landscaping Standards

35.5.1 Applicability. Landscaping shall be required in all non-residential developments (excluding agricultural uses), multi-family residential developments and model homes in any single-family residential subdivisions.

35.5.2 Preservation of native, on-site vegetation shall be a primary objective of site planning for development.

35.5.3 New planting materials shall be drought-tolerant and appropriate to the semi-desert environment of the Village.

35.5.4 The use of turf shall not exceed 20% of the development's landscaped area and shall be located, when used, to mitigate glare and reduce heat near buildings and to enhance pedestrian ways.

35.5.5 Earth berms shall be designed for transition to existing grades, shall not exceed a slope of 2:1, and shall be adequately covered with plant materials, ground cover or riprap to control erosion.

35.5.6 Natural drainage ways and existing natural vegetation may be used for screening.

35.6 Required Landscaping

35.6.1. All multi-family residential developments shall have all yard areas landscaped which are not specifically used for driveways, walkways, patios or similar purposes.

35.6.2 All commercial development shall provide landscaping within the areas of the development most visible from the adjacent streets. All portions of a site with over forty (40) square feet or area not specifically used for parking, driveways, walkways, or similar purposes and additional landscaping shall be fully screened.

35.6.3 All industrial developments shall landscape the front and side yards areas adjacent to streets which are not specifically used for parking, driveways, walkways, or similar purposes. Additional landscaping shall be required to fully screen any otherwise exposed storage yards.

SECTION 36: OFF-STREET PARKING

36.1 It is the intent of this Section to require and provide for adequate off-street parking and loading spaces on each parcel or lot as provided below sufficient in size and number to reasonably accommodate all vehicles of residents, employees, customers, clients and others, which may congregate at any point in time in order to reduce on-street parking and improve traffic and pedestrian flow and safety.

36.2 At the time any activity is established or building or structure is erected, or is enlarged, or otherwise increased in capacity, or whenever there is a substitution of activities or a change in nature of an existing activity, so as to increase or likely to increase traffic and need for parking, off-street parking for vehicles in such numbers as are hereinafter prescribed shall be provided as follows:

36.2.1 Residential

Single Family Dwelling and Duplex Residential Unit Two (2) Parking Spaces per dwelling unit, one (1) of which shall be a covered Carport or Garage.

Accessory Dwelling Units One (1) Parking Space per unit.

Multiple Family Dwellings (3 units or greater) One and one-half (1½) Parking Spaces per dwelling unit having two (2) or less bedrooms or two (2) Parking Spaces for each unit having three (3) or more bedrooms, plus one(1) Parking Space for every four (4) such units for guests, whichever is greater. One (1) Parking Space for each unit shall be a garage or carport.

Bed and Breakfast Establishments In addition to those required for the owner or manager, two (2) Parking Spaces, one for which shall be a covered carport or garage, plus one (1) additional Parking Space for every additional guest room beyond two (2) guest rooms.

36.2.2 Recreational Use Off-Street Parking Requirements

| | |
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| Theaters and auditoriums with fixed seats | One (1) Parking Space for every four (4) seats. |
| Auditoriums and exhibit halls without fixed seats. | One (1) Parking Space per hundred (100) gross feet of bench. |
| Dance halls | One (1) Parking Space for each five (5) seats or fifty (50) square feet of dance floor, whichever is greater. |
| Bowling centers | Six (6) Parking Spaces per alley, plus one (1) Parking Space for each shift employee. |
| Commercial swimming pools | One (2) Parking Space per one hundred (100) square feet of pool area. |
| Tennis and Racket Courts | Two (2) Parking Spaces per court, plus one (1) Parking Space for each shift employee. |
| Private Clubs without overnight accommodations | One (1) Parking Space for every four (4) persons of maximum occupancy of the facility, plus one (1) Parking Space for each regular employee. |

36.2.3 Institutional Use Off-Street Parking Requirements

| | |
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| Hospitals | One (1) Parking Space for each three (3) beds, plus one (1) Parking Space per staff doctor, plus one (1) Parking Space for each three (3) staff employees. |
| Convalescent homes, nursing homes | One (1) Parking Space per staff or visiting doctor, plus one (1) per |

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| | two (2) employees, plus one (1) Parking Space for every four (4) beds. |
| Day Care Centers and Nursery Schools | One (1) Parking Space for each employee, plus two(2) Parking Spaces, plus One (1) Loading Space for every five (5) children. |
| Churches and Mortuaries | One (1) Parking Space for every four (4) seats or seven (7) linear feet of bench. |
| Public or private high schools | One (1) Parking Space for each employee, plus one (1) Parking Space for every ten (10) students of planned capacity or one (1) parking space for each four (4) auditorium, seats, whichever is greater, plus an adequate bus loading area. |
| <u>36.2.4 Office, Medical and Financial</u> | |
| Medical, dental, optometry, veterinarian, and chiropractic offices | One (1) Parking Space per one hundred fifty (150) square feet of gross area, or Six (6) Parking Spaces per doctor, whichever is less. |
| Banks, lending agencies, financial & governmental institutions, and public utility offices | One (1) Parking Space per three hundred (300) square feet of gross floor area. |
| All other professional offices (other than medical, dental, Optometry, veterinarian or Chiropractic) | One (1) Parking Space per three hundred (300) square feet of gross floor area. |
| <u>36.2.5 Retail and Commercial</u> | |
| General retail sales, repair and services | One (1) Parking Space per two hundred fifty (250) |

| | |
|--|---|
| | square feet of gross floor area. |
| Uncovered general retail sales, Repair and services | One (1) Parking Space per two hundred fifty (250) Square feet of gross floor area. |
| Retail sales of large appliances, Automobiles, furniture, or other Similar bulky merchandise | One (1) Parking Space per four hundred (400) square feet of gross floor area. |
| Restaurants, bars, taverns, night clubs, cocktail lounges (other than as provided below) | One (1) Parking Space for every three (3) seats or one hundred (100) square feet of gross floor area devoted to dining, whichever is greater, plus one (1) Parking Space for each shift employee, plus eight (8) Parking Spaces for each exterior service window. |
| Barber and Beauty Shops | One (1) Parking Space per one hundred (100) square feet of gross floor area. |
| Service stations & vehicle repair garages | One (1) Parking Space for each four hundred (400) square feet of gross area, plus one (1) Parking Space per employee, but not less than three (3) Parking Spaces in total (service bays shall not be counted as part of the required parking). |
| Hotels and motels | One (1) Parking Space for each guest room, plus six (6) additional Parking Spaces. |
| 36.2.6. <u>Industrial</u> | |
| Warehouses under ten thousand (10,000) square feet of gross floor area | One(1) Parking Space per six hundred (600) square feet of gross floor area with a minimum of ten (10) Parking |

| | Spaces per parcel. |
|---|--|
| Warehouses over ten thousand (10,000) square feet of gross floor area | One (1) Parking Space per five thousand (5,000) square feet of gross floor area; with a minimum of ten (10) Parking Spaces per parcel. |
| All manufacturing plants, light industrial Uses, and wholesale service establishments | One (1) Parking Space per three hundred fifty (350) square feet of gross floor area. |

36.3 Where there is a combination of uses for any one facility on a parcel, the total required off-street parking shall be the sum of the requirements for the various uses calculated separately. The parking provided for one use may not be used to satisfy the parking requirements for another use on the same site, unless all of the following conditions are met:

36.3.1 Structures on the site clearly can be used only during limited time periods;

36.3.2 These uses occur during completely different periods of time;

36.3.3 The Planning Administrator determines there will be no conflicts or safety hazards between the proposed uses; and

36.3.4 A Conditional Use Permit is obtained.

36.4 The parking ratio shall be determined by the Planning Administrator for uses that are not specifically included herein.

36.5 Proposed commercial buildings without identified uses then specified shall provide one (1) parking space for every two hundred fifty (250) square feet of gross floor area subject to possible adjustment once an intended use is identified.

36.6 Every use shall provide the required parking on the same parcel except that the owners of adjoining properties may provide parking space in common if said parking area is secured by easement or other sufficient legal document, and provided the total number of parking spaces provided is equal to the sum of the individual needs.

36.7 All residential parking spaces shall be at least ten (10) feet wide, twenty (20) feet long, with a minimum of twenty-four (24) feet if back-up space is required. One parking space shall not be within the back-up space needed for exit from another

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parking space.

36.8 Special Parking Requirements.

- 36.8.1 Compact car parking spaces may be provided in commercial or industrial developments for up to thirty percent (30%) of the required off-street parking spaces where at least fifteen (15) parking spaces are to be provided or required.
- 36.8.2 Handicap parking shall comply with all applicable requirements of the State Building Code.
- 36.8.3 All retail and wholesale stores, warehouses, supply houses, buildings devoted to manufacturing trade, hotels, hospitals or other buildings where large amounts of goods are received or shipped shall provide loading and unloading space adequate to handle the volume and frequency of actual or anticipated truck traffic. The number and minimum dimensions of loading spaces shall be as determined by the Planning Administrator.
- 36.8.4 Each handicap parking space shall be delineated by blue painted curb and boundary lines and shall also be clearly labeled with the standard handicap symbol or clearly labeled for "handicapped only." Each compact car parking space shall be clearly labeled for "compact car only." Employee parking spaces shall clearly be labeled for "employee only."
- 36.8.5 All parking spaces abutting sidewalks, planters, buildings and landscapes shall be provided with a permanent curb, bumper, wheel stop or similar device. The stopping edge of such protective wheel stops shall be placed two (2) feet from the edge of the sidewalks, planters or landscaped areas and from any buildings.
- 36.8.6 All off-street parking for all uses, except single family uses, shall be designed such that vehicles need not back out of the parking area into a public street. However, utilizing a public alley for back-up space is acceptable.
- 36.8.7 Required off-street parking for any residential use may not be located in the required front yard setback area or required side yard setback area if adjacent to a street.
- 36.8.8 All required parking areas shall be paved with an impervious surface except for parking spaces adjacent to an Alley or Street for single family residential uses, which may be surfaced with crushed rock.
- 36.8.9 Any building or use whose parking becomes in effect substandard by the adoption of this Section but which were lawful prior to the adoption of this

Section, shall be considered a non-conforming use. Such non-conforming use may continue, but any enlargement or expansion shall provide the required number of parking spaces or parking area for the entire building or use as specified in this Section. Any change in occupancy or use in an existing building or lot which requires more parking space shall provide the additional parking area as required by this Section.

SECTION 37: ACCESSORY BUILDINGS, DWELLINGS, AND USES

- 37.1 The intent of this Section is to provide regulations for buildings or structures which are not the main or primary buildings on parcels, and in which the principal use for the land does not occur.
- 37.2 Accessory buildings if permitted in any district are so permitted whether constructed or located at the same time as the main building on the parcel or subsequent thereto.
- 37.3 Accessory buildings in any non-residential zone shall be built subject to the same restrictions as apply to the main building.
- 37.4 Adequate buffering is required to screen all accessory buildings from the public right-of-way.
- 37.5 Accessory dwelling units are permitted in residential zones only when they comply with the following restrictions:
 - 37.5.1 The unit is not for sale but may be rented;
 - 37.5.2 The lot contains an existing single family detached unit;
 - 37.5.3 The second unit is located within the Buildable Area of the existing dwelling;
 - 37.5.4 The unit shall not exceed twenty-five (25%) of the living area of the existing dwelling;
 - 37.5.5 Any construction shall conform to height, setback, lot coverage and other zoning requirements generally applicable to residential construction in the zone in which the property is located; and
 - 37.5.6 The accessory unit shall be serviced by existing sewer and utility connections, and no separate water, gas or electric meters shall be permitted.

SECTION 38: MOBILE HOMES AND MOBILE HOME PARKS

- 38.1 The intent of this Section is to provide the minimum standards necessary to ensure that Mobile Home Parks are safe and pleasing environments for the residents of the Mobile Home Park as well as the park's neighbors. Any Mobile Home Park legally established prior to the effective date of this Ordinance shall be allowed to continue if non-conforming as a pre-existing nonconforming use with the same number of mobile home units it had prior to the effective date. Mobile Homes may be removed and replaced without obtaining a conditional use permit if the total number of Mobile Home units does not increase. No increase in the number of Mobile Home units in the park shall be allowed without prior compliance with the terms of this Ordinance.
- 38.2 Mobile Home Parks shall require a business license to operate pursuant to the applicable Village regulations. All such homes shall be registered as required by applicable New Mexico law.
- 38.3 All applicants for a Mobile Home Park shall designate a duly authorized attendant or caretaker to be in charge of the Mobile Home Park and who shall be responsible for maintaining the Mobile Home Park, its facilities and equipment in a clean, orderly and sanitary condition.
- 38.4 The Mobile Home Park shall provide individual spaces that are well defined and delineated. The minimum lot size per Mobile Home shall be four thousand (4,000) square feet. Each Mobile Home space shall be required to maintain the following yard areas; side to side spacing between Mobile Homes shall be at least 20 feet, and back-to-back spacing shall be at least 15 feet. The distance between any Mobile Home and any building shall be at least 20 feet. A 20 foot setback from the interior streets of the Mobile Home Park shall be maintained, which setback may be used for off-street parking. The width for each Mobile Home space shall be at least forty (40) feet. Minimum setbacks and distances between Mobile Homes must be maintained. A Mobile Home shall be located at least 25 feet from the right-of-way line of any public street, and at least 10 feet from any exterior property line of the Mobile Home Park.
- 38.5 There shall be at least two automobile off-street paved parking spaces for each Mobile Home. Parking may be either tandem or side-by-side parking.
- 38.6 Landscaping or fencing (six feet [6'] in height) shall be provided around the perimeter of the Mobile Home Park to adequately screen the Mobile Home Park from adjacent land.
- ~~38.7~~ Mobile Homes where permitted shall be determined to be compatible with existing residential structures in the surrounding neighborhood (whether situated on individual lots or within a Mobile Home Park) through compliance with following design requirements.
- 38.7.1 The Mobile Home is to be occupied only as a residence;

- 38.7.2 The Mobile Home meets all development standards of the applicable zoning district;
- 38.7.3 The Mobile Home is certified under the National Manufactured Home Construction and Safety Standards Act of 1987 and any subsequent revisions;
- 38.7.4 The Mobile Home is securely anchored in accordance with the manufacturer's instructions for permanent foundation systems or other systems as approved by the New Mexico Manufactured Housing Division;
- 38.7.5 The home's architectural design is compatible with residential structures in the surrounding area;
- 38.7.6 The home's roofing material is of a material compatible with that used on residential structures in the surrounding area, and all the roofs shall have eave and gable overhangs; and
- 38.7.7 Each new and pre-owned Mobile Home shall require a permit as required by applicable New Mexico law.

SECTION 39: SIGNS

- 39.1 The intent of this Section is to provide the minimum standards to safeguard life, health, property and public welfare by regulating and controlling the location, placement, size, numbers, surface area, illumination, materials, and maintenance of signs and sign structures. The intent of this Section is also to maintain the orderliness to the Village's appearance.
- 39.2 No sign permit shall be required for the signs as listed below. However, in no case shall a sign be deemed to be exempt if it is listed as a prohibited sign herein.
 - 39.2.1 One name plate less than three (3) square feet in area and located adjacent to one entryway, for each business or occupant in any District.
 - 39.2.2 Memorial signs, names of buildings and dates of the building's construction which do not exceed four (4) square feet in area.
 - 39.2.3 Traffic or other municipal signs, legal notices, railroad crossing signs, temporary or emergency non-advertising signs and signs identifying the existence or location of public utility facilities.
 - 39.2.4 Temporary Signs of a directional nature, on-site directional signs, including no trespassing and no dumping signs, up to four (4) square feet in area and not exceeding four (4) feet in height.

- 39.2.5 Temporary Signs and banners of a civic, charitable, educational or municipal nature including public events and parades.
- 39.2.6 Up to four (4) on-site temporary garage and yard sale signs not to exceed a total of sixteen (16) square feet.
- 39.2.7 Temporary Signs on windows of commercial buildings, provided no more than twenty-five (25%) percent of the window surface is covered, for a time period not exceeding fifteen (15) days.
- 39.2.8 One (1) on-site construction sign not to exceed six (6) feet in height erected by a building contractor, subcontractor, architect or engineer while actually engaged in construction of the building.
- 39.2.9 One (1) on-site real estate sign pertaining to the sale, lease, rental or display of a structure or of a land which shall not exceed four (4) square feet in area.
- 39.2.10 Political Signs shall not be placed on any portion of a street, sidewalk, or other public right-of-way.
- 39.3 Prohibited Signs. Except as otherwise provided in this Ordinance, the following signs shall be prohibited throughout the Village of Milan.
 - 39.3.1 Signs on or projecting above the roof or the canopy of a structure, or signs, which appear to be roof signs from the public right-of-way.
 - 39.3.2 Lighted signs that flash on or off and any sign feature which moves or is designed to move.
 - 39.3.3 Lighted signs whose surface brightness is a detriment to surrounding properties, signs which prevent the peaceful enjoyment of surrounding property or a conflict with safe traffic movement or advertising displays which emit audible sound, odor, or visible matter.
 - 39.3.4 Signs located in such a manner as to obstruct free and clear vision or the view of any authorized traffic sign, signal, or device.
 - 39.3.5 Any sign, which because of its location, would prevent free ingress to or egress from any door, window, fire escape, driveway, sidewalk or would obstruct an outward view from any living or occupied area.
 - 39.3.6 Signs placed on any portion of a street, sidewalk, or public right-of-way excluding signs on newspaper vending machines.
 - 39.3.7 Abandoned signs or signs which no longer identify a bonafide business

entity.

- 39.4 Signs in Residential Districts Only signs which are permissible in Section 39.2 or which meet the following standards will be permitted in any residential district.
- 39.4.1 Only one (1) Freestanding Sign or one (1) Wall Sign, located flat against a wall, shall be permitted for each Multiple Family Dwelling or Mobile Home Park. The Freestanding Sign shall not exceed six (6) square feet in area, shall not be illuminated nor rotating, shall not exceed four (4) feet in height, and shall be set back at least ten (10) feet from the front Lot Line. The Wall Sign shall not exceed twelve (12) square feet in area, and shall not be illuminated.
- 39.4.2 Residential subdivision signs, advertising a tract having five (5) or more units for sale, and may include one (1) Freestanding or Wall Sign on-site which does not exceed thirty-two (32) square feet in area. If otherwise permissible hereunder, the subdivision may also locate up to three (3) off-site Directional Signs, up to thirty-two (32) square feet each. Such signs shall be removed immediately after completion of sales or after one (1) year, whichever occurs first, unless granted an extension by the Planning Administrator.
- 39.4.3 Bed and Breakfast establishments shall be allowed one (1) sign of the type as described in Section 39.2.1.
- 39.5 Signs in Agricultural Districts. Signs advertising farm products be permitted to advertise the sale of those farm products which are grown on the site, and such signs may not exceed a total of thirty-two (32) square feet of sign area which may include only one Freestanding Sign.
- 39.6 Signs in Commercial and Industrial Districts: Only signs meeting the following standards will be permitted in commercial or industrial districts, provided that there is compliance with all other applicable provisions of this Ordinance.
- 39.6.1 Signs shall be located and erected only upon the premises occupied by the person or business to be identified or advertised by such signs. The location of all signs shall also be in compliance with the building, electrical and fire prevention codes of the State of New Mexico.
- 39.6.2 The maximum permissible total sign area for all signs including free standing signs (but excluding freeway signs) for all commercial or industrial districts shall not exceed the maximum total sign area for each business, according to the following table.

| | Maximum total sign area permitted (in square feet) for each lineal foot of building frontage | Maximum total sign area permitted (in square feet) regardless of building frontage |
|--------------------------|--|--|
| C-1 Community Commercial | 2 | 75 |
| C-1 Highway Commercial | 1½ | 150 |
| M-1 Industrial | 1 | 350 |

39.6.3 The permitted signs may be mounted as freestanding or located on any side of a building. The lineal footage of a building shall be that distance of building frontage facing a public street. The maximum sign area for buildings, which front on more than one (1) street shall be calculated by using the longest of any one such frontage.

39.6.4 The maximum number of freestanding signs shall be one(1) per business, building or parcel, whichever is most restrictive. The area of the freestanding sign shall be included in the maximum area allowed. The maximum height for any freestanding sign shall be eight (8) feet, except for freeway-oriented signs.

39.6.5 The maximum allowable sign area for all service station signs shall be one hundred (100) square feet. All service station freestanding signs shall meet the requirements as listed in Section 39.6.2 for the district in which it is located, except that one (1) ground sign per station for price display is permitted up to fifteen (15) square feet in area. Such ground signs shall not exceed five (5) feet in height and shall be located so as no to obstruct free and clear vision of traffic. Price signs that comply with these regulations will be permitted in addition to the maximum allowable sign area. A maximum of two (2) square feet of signs and information mounted directly to the top of gasoline pumps will be permitted in addition to the total allowable sign area.

39.7 One (1) on-site freeway-oriented sign may be permitted in addition to one (1) monument sign. The freeway-oriented sign shall not exceed sixty (60) feet in height and shall not exceed one hundred (100) square feet in sign area.

39.8 Every sign and all parts and materials together with the frame, background, supports or anchorage shall be maintained in proper repair. The display surface of all signs shall be kept neatly painted and/or posted. Failure to so maintain signs shall constitute a violation of this Ordinance, and removal may be ordered.

- 39.9 A variance will be granted so as to permit the continuation of the use of any sign which existed immediately prior to the effective date of this Ordinance if such sign was not in violation of any then-existing Ordinance or law.

SECTION 40: TRAILERS AND RECREATIONAL VEHICLES

40.1 It is the intent of this Section of the Ordinance to establish regulations that apply to the storage and parking of Trailers and Recreational Vehicles in the Village.

40.2 An operable Recreational Vehicle or Trailer may be parked for storage in all zones as follows.

40.2.1 Enclosed Parking is permitted inside any enclosed structure, which structure otherwise conforms to the zoning requirements of the particular zone where it is located;

40.2.2 Parking not in a enclosed structure is permitted uncovered in a side yard or in a rear yard, provided such parking is not nearer than two (2) feet to the lot line. A Recreational Vehicle may be parked temporarily anywhere on the property during active loading and unloading;

40.2.3 Parking is for storage purposes only, and any Recreational Vehicle or Trailer shall not be:

A. Used for dwelling purposes;

B. Permanently connected to sewer lines, water lines, or electricity except for a temporary electrical connection for the charging batteries and other related purposes; or

C. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential to its immediate use.

40.2.4 In residential zones, Recreational Vehicles shall be parked for storage only on property on which the vehicle's owner resides. Such parking is permitted outside a structure in the Rear or Side Yard. Recreational Vehicles can only be parked in the Front Yard if on a paved or graveled driveway and provided that all of the following conditions exist:

A. Space is not available in the Rear Yard or Side Yard, or the Lot is not on a corner and has no reasonable access to either the Side Yard or Rear Yard;

B. Inside parking is not possible;

- C. The vehicle is parked perpendicular to the Front Lot Line;
- D. No part of the vehicle extends over the public sidewalk or public thoroughfare (right-of-way);
- E. No more than one (1) recreational vehicle or trailer is parked in the Front Yard of each residential unit;
- F. The vehicle is parked at least five (5) feet from the Side Lot Line.

SECTION 41: YARDS

41.1 It is the intent of this Section of the Ordinance to establish regulations which apply to yard areas of parcels within the Village.

41.2 Every building hereafter constructed upon a building site shall be located on the site so as to provide for the yards specified in the regulations for the district in which the site is located.

41.2.1 Every Front or Rear Yard shall extend along a lot line the full width of the Lot, and every such Side Yard shall extend along a lot line from the Front Yard or the Front Lot Line to the Rear Yard. A required yard shall be open and unobstructed, except as otherwise provided herein. The required minimum depth or width of any yard shall be measured generally at the right angles to the lot line and from the nearest point of the building.

41.2.2 Where the building wall is not parallel to a Side or a Rear Lot Line the required least dimension of the Side Yard or the Rear Yard along such line may be applied to the average, provided that no such Side Yard shall be less than three (3) feet in width at any point, and no such Rear Yard shall be less than ten (10) feet in depth at any point.

41.3 The following exceptions shall apply to all required yards:

41.3.1 In any residential district where twenty-five (25%) percent or more of the lots in any block, exclusive of the frontage along the side of a corner lot, has been improved with at least six (6) buildings at the time of the passage of this Ordinance (or any prior Ordinance) and the Front Yards on such lots vary in depth to an extent not greater than six (6) feet, then the required Front Yard depth for such district shall be disregarded in such block and in lieu thereof the Front Yard required on each lot in such block shall be of a depth not less than the average depth of the Front Yards on the lots on which are located such existing buildings.

This section deleted by Ordinance 245

SECTION 42: HAZARDOUS MATERIALS STORAGE

42.1 Hazardous materials and wastes shall not be released into a sewer, on-site liquid waste disposal system, storm drain, ditch, drainage canal, lake or river or upon the ground, sidewalk, street, highway or into the subsurface or atmosphere.

Exceptions:

42.1.1 Pesticide products and materials intended for use in weed abatement, pest control, erosion control, soil amendment or similar applications when applied in accordance with the manufacturer's instructions, and in accordance with nationally recognized standards.

42.1.2. Materials released in accordance with Federal, State or local governing regulations with a National Pollutant Discharge Elimination System Permit, with waste discharge requirements established by the New Mexico Water Quality Control Commission or with local sewer pretreatment requirements.

42.2 Hazardous materials and wastes are those chemicals or substances listed in Table 2. Included are materials that pose physical hazards or health hazards, regardless of whether the materials are in usable or waste condition. The tabulated materials are a subset of those classified as hazardous materials in Article 80 of the 1991 Uniform Fire Code.

42.3 Conditional Use Permits shall be required to manufacture, store, dispense, use, or handle hazardous materials and wastes at facilities for which the following conditions apply: (1) the facility is located within an appropriate district and (2) hazardous materials and wastes are present in excess of quantities listed in Table 2. Such permit shall not take the place of any license as otherwise required by law.

42.4 The Commission shall review and approve plans and issue a permit prior to issuance of building permits for new construction and major remodeling for those seeking the issuance of such Conditional Use Permits. Permits shall also be issued prior to commencement of new business activities in existing facilities.

42.5 Permits shall not be transferable and any change in use, occupancy, operation, or ownership shall require a new permit. Permits shall be renewed annually.

42.6 The Commission is authorized to suspend or revoke a permit when it is determined after a hearing that:

42.6.1. The permit has been used by a person other than the person to whom the permit was issued;

42.6.2. The permit has been used for a location other than that for which it was issued;

42.6.3. Any of the conditions or limitations set forth in the permit, have been violated;

42.6.4. The permit failed, refused, or neglected to comply with orders or notices duty served;

42.6.5. There has been a false statement or misrepresentation to a material fact in the application or plans on which the permit or application was based or

42.6.6. The permit has caused an unabated release of hazardous materials to the environment.

42.7. No quantity greater than fifty-five (55) gallons of any material listed in Table 2 shall be stored within four hundred (400) feet of any residential district or water well in the Village.

SECTIONS 43-50: RESERVED

ARTICLE E. ADMINISTRATION

SECTION 51: BOARD OF TRUSTEES

51.1 In addition to the responsibilities conferred by New Mexico Statutes upon the Board as the governing body of the Village, the Board shall have the following powers and duties under the provisions of this Ordinance:

51.1.1 To approve members of the Planning & Zoning Commission as nominated by the Mayor and to assign appropriate planning-related projects to the Commission for review and advice;

51.1.2 To hire the Code Enforcement Officer (CEO) and review his/her performance and duties in conformance with the personnel regulations of the Village;

51.1.3 To hire the Planning Administrator and review his/her performance and duties in conformance with the personnel regulations of the Village;

51.1.4 To accept and enforce written decisions of the Commission unless an appeal is timely filed;

51.1.5 To hear and decide appeals of decisions of the Commission;

51.1.6 To enact amendments to the Ordinance and the Map as appropriate;

51.1.7 To interpret the provisions of this Ordinance and the Map; and

51.1.8 To establish from time to time such policies and rules as it may deem necessary to assure the proper administration and enforcement of this Ordinance.

SECTION 52: PLANNING AND ZONING COMMISSION

52.1 The Commission shall consist of five (5) members, all but one (1) of whom shall be residents of the Village. The one (1) exception may be an individual residing in a residence receiving water service from the Village. All members shall be appointed by the Mayor with the consent of the Board. Initially three (3) members will be appointed for three (3) year term and two members will be appointed for a two (2) year terms. Members may be re-appointed by Village for unlimited terms. Members shall generally be appointed during the month of June.

52.2 Annually, in July, or more frequently at the pleasure of the Commission, the members of the Commission shall elect a chairperson, a Vice chairperson and any other officials which seem appropriate by a majority vote. The Chairperson or Vice Chairperson may form subcommittees of the members of the Commission in order to expedite the planning process and to carry out the duties and the responsibilities of the Commission.

52.3 The Commission shall adopt rules and regulations for the conduct of business as seem appropriate to its members and make available for review by the public such rules and regulations. A quorum of three (3) members of the Commission shall be required to take any action or make any decisions. All actions may be decided by a simple majority of those present.

52.4 Any member of the Commission who has a financial interest in the outcome of any policy, decision or determination before the Commission on which s/he serves shall, as soon as possible after such interest becomes apparent, disclose to each of the other members of the nature of his/her financial interest in the issue and shall be disqualified from participating in any debate, decision or vote relating on the matter.

52.5 The Commission shall hold its meetings in conformance with the Open Meetings Act (§ 10-15-1 through 10-15-4 NMSA 1978). Regardless, the Commission shall meet at least quarterly. The commission may hold additional meetings as may be called by the Chairperson or Vice Chairperson. All meetings will be open to the public unless closed as allowed by applicable provisions of the Open Meetings Act.

52.6 The Planning Administrator or his/her designee shall keep minutes of all meetings of the Commission. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the

substance of the proposals considered and a record of any decisions and voted taken that show how each member voted. The minutes shall be kept available for public inspection at reasonable times. The minutes must be presented to members of the Commission within ten (10) working days after the meeting.

- 52.7 In addition to its general duties and responsibilities, the Commission shall specifically undertake the following:
- 52.7.1 To initiate, review and make recommendations to the Board concerning the preparation, update and/or amendments to the Comprehensive Plan for the Village;
 - 52.7.2 To administer and enforce the provisions of this Ordinance as provided herein;
 - 52.7.3 To review and make recommendations to the Board concerning amendments to the Map and to the text of this Ordinance;
 - 52.7.4 To review and make recommendations on requests for annexation;
 - 52.7.5 To promote understanding among public officials as well as the residents of the Village on matters as set forth in this Ordinance;
 - 52.7.6 To review and decide to approve, conditionally approve or deny applications for development according to the requirements of this Ordinance;
 - 52.7.7 To hold a public hearing on any appeal to an administrative decision of the Planning Administrator or CEO when it is alleged that there is an error in the order, requirement or determination made by the Planning Administrator or CEO, and to reverse, affirm or modify the administrative decision of the Planning Administrator or CEO; and
 - 52.7.8 To decide any question involving the interpretation of any provision of this Ordinance. The decision of the Commission shall be final unless an appeal is taken to the Board.
- 52.8 The Commission shall have the authority to recommend from time to time such policies and rules not in conflict with other laws as it may deem necessary to assure the proper administration and enforcement of this Ordinance. Such policies and/or rules shall be forwarded to the Board for final consideration and adoption.
- 52.9 Members of the Commission shall be compensated at the rate of \$25.00 per meeting and/or workshop when authorized to attend.

SECTION 53: CODE ENFORCEMENT OFFICER

- 53.1 The CEO shall assist the Commission with the administration of this Ordinance and shall have the following duties and responsibilities:
- 53.1.1 To receive applications for processing pursuant to the terms of this Ordinance and to determine if such applications are complete;
 - 53.1.2 To review and make administrative decisions for the disposition of applications for home occupation permits, sign permits, mobile home installation permits and site plan review certifications;
 - 53.1.3 To review and make recommendations to the Commission regarding applications for conditional use permits, variances, beneficial use determinations and amendments to the Map and to the text of this Ordinance;
 - 53.1.4 To ensure that adequate public notice is provided pursuant to the terms of this Ordinance;
 - 53.1.5 To maintain the permanent files of each application and for each enforcement action undertaken pursuant to the provisions of this Ordinance;
 - 53.1.6 To maintain the Map;
 - 53.1.7 To initiate requests to the Village Attorney through the Village Manager to institute proceedings against violators of this Ordinance;
 - 53.1.8 To review, as necessary, but at least annually, the Comprehensive Plan (as it exists) and this Ordinance and recommend amendments to the Commission and the Board as appropriate;
 - 53.1.9 To inspect buildings, uses, developments or other activities for compliance with this Ordinance;
 - 53.2.0 To make such investigations and written reports as the Commission, the Board and/or the Planning Administrator may direct;
 - 53.2.1 To enforce all laws relating to the construction, alternation, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures;
 - 53.2.2 To issue such notices and orders as may be deemed necessary for the purpose of enforcing compliance with the provisions of this Ordinance;
and
 - 53.2.3 To report to the Village Chief of Police concerning his/her duties and

responsibilities undertaken pursuant to this Ordinance.

SECTION 54: VILLAGE ATTORNEY

- 54.1 In addition to the jurisdiction, authority and duties which be conferred upon the Village Attorney by other provisions of the Village Municipal Code, the Village Attorney shall have the following authority and duties under this Ordinance as assigned by the Village Manager:
- 54.1.1 To review for form, all written findings of fact and resolutions drafted by the Commission and staff in connection with any requirements of this Ordinance;
 - 54.1.2 To review for form, all development agreements, easements, declarations of covenants, letter of credit, performance guarantees or other such documentation in connection with any requirements of this Ordinance;
 - 54.1.3 To advise the Board, the Commission, the Code Enforcement Officer and other Village staff members in regard to the legal issues, which may arise during the implementation and enforcement of this Ordinance;
 - 54.1.4 To initiate legal proceedings against violators of this Ordinance as directed by the Board, and
 - 54.1.5 To ensure that the public hearings and meetings held by this Ordinance are conducted in the manner required by law.

SECTION 55: APPLICATIONS AND FEES

- 55.1 Applications shall be made on forms provided by the Village.
- 55.1.1 When the applicant is not the owner of record, the application shall be accompanied by an owner's affidavit approving the application and authorizing the agent to act on the owner's behalf in processing the application. When the owner of the record reside out-of-state, the affidavit shall designate a local agent capable of receiving notices and service of process.
- 55.2 The applicant may request an informal pre-application conference with the CEO.
- 55.2.1 The purpose of the pre-application conference is to expedite the application process, to reduce design and development costs and to assist that applicant in understanding the requirements and procedures of this Ordinance.
 - 55.2.2 No fee shall be required at the pre-application stage.

- 55.2.3 Neither the applicant, the Village staff, the Commission, nor the Board shall be necessarily bound by any statements or determinations made during the pre-application conference.
- 55.3 Applications shall be submitted to the CEO, who shall have responsibility for determining whether the submitted application is complete.
- 55.3.1 If the CEO deems the application complete, the time frames herein for review and action shall begin.
- 55.3.2 If the CEO determines that the application is not complete, s/he shall mail the applicant with a written statement within ten (10) days of submission of the application of the additional items required to complete the application.
- 55.3.3 No review or hearings shall be conducted for incomplete applications.
- 55.4 Reasonable fees sufficient to cover the cost of administration, inspection, publication of notice and similar matter may be charged to applicants.
- 55.4.1 Applications shall not be deemed complete unless the applicable fee is paid.
- 55.4.2 Reasonable fees for consultants (planners, architects, engineers and other qualified professionals) may be charged in those cases where the proposed development is extremely complex and necessitates a higher level of review beyond the scope of expertise and resources of Village staff.
- 55.4.3 The amount of the fees shall be established from time to time by resolution of the Board and as filed in the office of the Village Clerk.
- 55.4.4 Fees shall not be refunded for applications that are withdrawn or denied.
- 55.5 All applications filed pursuant to this Ordinance shall be numbered consecutively in the order of their filing and shall become a part of the permanent records of the CEO.
- 55.5.1 The permanent records shall include copies of all notices and actions with certificates and affidavits of posting, mailing or publications pertaining to the application.
- 55.5.2 A summary of all pertinent testimony offered at public hearing held in connection with an application filed pursuant to this Ordinance, and the names of persons testifying at the hearing, shall be part of the permanent records.

55.6 Applications for permits or approvals, pursuant to this Ordinance, shall be deemed to have been abandoned when information and/or fees necessary for the completion of the application have been requested in writing and not received by the CEO within ninety (90) days of notification.

55.6.1 The applicant may request (within the 90 day time period) an extension of up to one hundred eighty (180) days.

55.6.2 No further action shall be taken on an application, and no fees will be refunded once the application is abandoned.

SECTION 56: COMPUTATION OF TIME

56.1 Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday or legal holiday, deadline shall be extended to the next regular business day. When the period time prescribed is less than seven (7) days, intermediate Saturdays, Sundays and Holidays shall be excluded. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him/her and the notice of paper is served by mail, three (3) days shall be added to the prescribed period.

SECTION 57: NOTICE REQUIREMENTS

57.1 Notices required pursuant to this Ordinance shall conform to the requirements this Section in order to afford the applicant, the public and interested citizens an opportunity to fully participate in the process required hereunder.

57.2 The CEO, upon certifying that the application is deemed complete shall place the application on the agenda for the Commission for a public hearing which permits sufficient time for fifteen (15) days notice to all appropriate.

57.3 The CEO shall prepare a summary of the application, the permanent record and his/her recommendation. This summary shall be provided to both the Commission and the applicant no later than five (5) days prior to the public hearing at which the application will be considered.

57.4 All notices required by this Section shall include the date, time and place of hearing, a brief description of the application to be considered and the place where copies of the application may be examined.

57.5 The CEO shall give notice of a public hearing as follows:

57.5.1 Notice of any public hearing required by this Ordinance shall be given to the applicant and any other person who makes a written request for such

notice by mailing a notice to such persons at least seven (7) days prior to the public hearing.

57.5.2 In addition to the other notices required by this Section, notice for amendments to the Map shall be given to all owners of property within the area proposed to be changed and to all owners of property within 100 feet of the exterior boundaries of the area proposed to be changed, using for this purpose the last known name and address of the owners as shown in the current records of the Cibola County Assessor.

57.5.3 Notice shall also be given in a newspaper of general circulation in the Village at least fifteen (15) days before the date of the hearing.

57.5.43 Reasonable effort shall be made to give notice to all persons who have made a written request to the CEO for advance notice of the hearings.

57.6 The applicant shall post one (1) or more signs regarding the public hearing as provided by the CEO at least fifteen (15) days before the date of the hearing. The sign(s) shall be posted in a location visible from the nearest public right-of-way. The applicant shall be responsible for removing the sign(s) within five (5) days following the hearing. Failure to properly post signs is grounds for deferral or denial of the application.

57.7 An advertised hearing may be continued to a time and place announced at the hearing without readvertising or reposting signs.

57.8 Amendments to the Map or this Ordinance shall be by ordinance. Following approval of the amendment, the CEO shall publish the title and general summary as otherwise required for ordinances. Such ordinance shall be effective as provided by law for ordinances.

SECTION 58: CONDUCT OF PUBLIC HEARINGS

58.1 The CEO shall prepare summary minutes of all public hearings conducted pursuant to this ordinance and they shall be kept available for public inspection. A copy of the summary minutes shall be kept in the permanent file for the application.

58.2 The Commission shall neither:

58.2.1 Communicate, directly or indirectly, outside of a hearing with any party (excluding the CEO) or his representatives in connection with the merits of any issue involved;

58.2.2 Use nor rely upon any communication, reports, staff memos or other

materials, (excluding CEO), prepared in connection with the particular case unless it is made part of the record.

- 58.3 The Commission may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony. All testimony at the hearing shall be under oath or affirmation. Reasonable cross-examination shall be permitted.
- 58.4 The Commission may either render a decision following the close of public testimony or take the matter under advisement and render a decision at the next regularly scheduled meeting.

SECTION 59: RESERVED

ARTICLE F: PERMITS

SECTION 60: BUILDING PERMITS

- 60.1 A building permit shall be required for all construction within the Village as specified in the Uniform Building Code. Applications for building permits shall be reviewed and approved or denied by the Construction Industries Division (CID) of the State of New Mexico.
- 60.2 Applicants for a building permit shall be required to present a Site Plan Review Certification to CID prior to issuance of a building permit and prior to the commencement of any construction activities.

SECTION 61: MOBILE HOME INSTALLATION PERMITS

- 61.1 A mobile home installation permit shall be required prior to the placement of any mobile home in the Village. An application for a mobile home installation permit shall be submitted to the CEO on the forms(s) prescribed by the Village.
- 61.2 Prior to issuance of a mobile home installation permit, the applicant shall provide a copy of the permit issued by the New Mexico Manufactured Housing division as required by the Manufactured Housing Act.
- 61.3 The CEO shall have the responsibility to review the application and to issue a Village mobile home installation permit if the application meets the requirements of this Ordinance.

SECTION 62: SITE PLAN REVIEW CERTIFICATION

- 62.1 For the purpose of ensuring that land use or construction activities are compatible with the requirements of this Ordinance, a Site Plan Review Certification shall be required prior to the commencement of any land use or construction within the

Village.

- 62.2 An application for Site Plan Review shall be presented to the CEO on the form(s) prescribed by the Village. The CEO shall have the responsibility to review the application and to issue a Site Plan Review Certification if the application meets the requirements of this Ordinance.
- 62.3 The decision of the CEO is final unless an appeal is taken to the Planning and Zoning Commission, as provided herein.
- 62.4 The CEO shall approve the Site Plan only after determining the following:
 - 62.4.1 The proposed use is permitted by this Ordinance;
 - 62.4.2 The dimensional arrangement of the buildings and structures within the lot for which the site plan is prepared conform with the development standards of this Ordinance; and
 - 62.4.3 The lot, which is the requested location for the proposed use, has been created in compliance with State and local subdivision requirements as well as this Ordinance.

SECTION 63: SIGN PERMITS

- 63.1 Permits shall be required for all signs in the Village of Milan, except those specifically exempted in Section 39. No sign, outdoor advertising structure, billboard or display shall be erected, installed, located or maintained in any District, except in conformance with these regulations and the approved sign permit. Additional sign and relocations or alternations of existing signs after the sign permit has been issued must conform to and be approved in the same manner as the original application. A building permit from CID may also be required.
- 63.2 All applications for sign permits shall be accompanied by sketches and diagrams of suitable scale and clarity to fully describe the design, dimensions, proposed placement, structural and electrical characteristics and appearance of the sign or signs.
- 63.3 An application for a sign permit shall be presented to the CEO on the form(s) prescribed by the Village. The CEO shall have the responsibility to review the application and to issue a sign permit if the applications meets the requirements of this Ordinance.
- 63.4 The decision of the CEO is final unless an appeal is taken to the Commission, as provided herein.
- 63.5 Signs, which are not constructed in conformance with the permit application and

drawings and diagrams shall be deemed not to have been issued a valid sign permit.

- 63.6 If the work as authorized under the approved sign permit has not been completed within six (6) months after the date of its issuance, such permit shall become null and void.

SECTION 64: HOME OCCUPATION PERMITS

- 64.1 For the purpose of ensuring that businesses and occupations conducted within the home are compatible with the requirements of this Ordinance, a Home Occupation permit shall be required prior to the commencement of any home occupation.
- 64.2 An application for a Home Occupation permit shall be submitted to the CEO on the form(s) prescribed by the Village. The CEO shall have the responsibility to review the application and to issue a Home Occupation permit if the application meets the requirements of this Ordinance.
- 64.3 The decision of the CEO is final unless an appeal is taken to the Commission as provided herein.

SECTION 65: CONDITIONAL USE PERMITS

The requirements and procedures specified below shall apply to all requests for conditional use permits:

65.1 Limitations And Grounds For Conditional Use Permits:

- 65.1.1. Authority To Grant: Conditional use permits shall only be granted for a conditional use which the Village is specifically authorized to pass judgment on by virtue of the use being listed as conditional for that particular District in Table 1. Since conditional uses may only be appropriate at certain locations within a particular zoning district and with additional safeguards, it is the Commission's responsibility to exercise proper discretion in granting permits for such uses.
- 65.1.2 Grounds For Requesting And Granting: Acceptable grounds for requesting and granting a conditional use permit are if the requested use at the specific location proposed would meet the following criteria:
- A. The use will not have a significant adverse effect on the character and value of adjacent properties or the surrounding neighborhood.
 - B. The use will not create a hazard, a public nuisance or be injurious to individuals or to the public.
 - C. The use will not generate undue traffic congestion.
 - D. The use will not cause noise which is excessive for the

particular area.

- E. The use will not have a significant adverse effect on the natural environment and attractiveness of an area.
- F. The use will not be contrary to the public interest.
- G. The applicant will be able to meet any particular requirements specified for such a use in this title and any additional conditions that the Commission may impose.
- H. The applicant will be able to meet all requirements imposed by applicable state and federal laws and regulations.
- I. The use is consistent with the policies and recommendations of the Village Comprehensive Plan.

65.2 Initiation Of Requests: Any property owner who believes he/she has acceptable grounds for a conditional use permit may submit an application for such a permit for his own property.

65.3 Procedures For Filing:

65.3.1 Application Form: A written application for a conditional use permit shall be submitted to the board through the Planning Administrator on a form as prescribed.

65.3.2. Required Information: The application shall include the following information:

- A. The name and address of the applicant.
- B. The legal description of the property involved in the request.
- C. The District designation of the property.
- D. A full and exact description of the use which is being requested and under which named use listed in this title the request is being made.
- E. A written discussion statement demonstrating the likelihood of being able to meet the acceptable grounds for a conditional use permit as provided in this Ordinance.
- F. A preliminary site plan, drawn to scale, with enough detail to allow a generalized assessment of the effects of the proposed development. The site plan should show the proposed placement of buildings and structures on the property, provisions for vehicular ingress and egress, off street parking and loading areas, proposed utility and storm drainageways, screening and landscaped buffers.
- G. Any additional information deemed necessary by the Commission.

65.3.3. Transmittal To Board: The Planning Administrator shall be responsible for transmitting to the Commission the application materials, any written protests or

comments by interested persons relating to the application and his/her written advisory recommendation no later than five (5) days prior to the hearing.

- 65.4 Charges: The charges for conditional use permits shall be as fixed from time to time by the Village through resolution with due public notice. Such charges shall be paid by the applicant to the Village at the time of filing the application. Application charges are non-refundable.
- 65.5 Time Of Hearing, Public Notice: A public hearing before the Commission shall be scheduled for considering an application for a conditional use permit within a reasonable time but no later than sixty (60) days after the filing of the application, unless the applicant agrees otherwise, in writing. Due public notice shall be given of the hearing. An advertised hearing may be continued to a time and place announced at the hearing without readvertising.
- 65.6 Public Hearing: At the public hearing, the applicant may appear in person or be represented by his agent or attorney. The board shall give due consideration to the application materials, the recommendation of Village staff, any written protests or comments by interested persons and any public testimony by interested persons before making a decision on the application at its final hearing. A decision shall be rendered within a reasonable period of time but at no later than sixty (60) days after filing of the application, unless the applicant agrees otherwise, in writing.
- 65.7 Action Taken:
- 65.7.1. Authority To Grant Or Disapprove: The Commission shall either grant or disapprove the request for the conditional use permit.
- 65.7.2. Conditions For Approval: However, the Commission may grant a conditional use in a particular case only if it finds, and so states in the minutes of the hearing, that the following conditions have been met:
- A. The granting of the conditional use permit would be consistent with the acceptable grounds for conditional use permits as specified in this Ordinance.
 - B. The applicant demonstrates an ability to meet any particular requirements specified for such a use in this Ordinance.
 - C. The applicant agrees to meet any additional safeguards and conditions which may be imposed by the board and which are in conformity with the intent and purpose of this Ordinance and which are necessary to protect the public interest. Additional conditions may involve, but are not limited to, such matters as special screening and landscaped buffering, lot and yard areas larger than the minimum required in the zoning district, noise control measures, special restrictions on the number and location of ingress and egress points, special restrictions regarding hours of operation, special restrictions on the maximum building floor area or lot area which may be devoted to the use, and special restrictions on signs. Violation of such conditions or safeguards as may be

imposed by the Commission may result in a revocation of any conditional use permit in addition to any other remedy for such violations provided for in this title. The Commission may revoke a conditional use permit subject to such violations only after a public hearing where the alleged violator is given the opportunity to be heard.

SECTIONS 66-70: RESERVED

ARTICLE G: VARIANCES AND BENEFICIAL USE DETERMINATIONS

SECTION 71: VARIANCES

- 71.1 The Commission shall have the power to grant variances from the requirements of this Ordinance as may be reasonable and within the general purpose and intent of this Ordinance. Variances shall be granted sparingly because this Ordinance is designed to provide the maximum amount of flexibility in the development process while ensuring that the public health, safety and general welfare are preserved.
- 71.2 Application for variances shall be filed with the CEO on the form(s) provided for such purpose. The application shall state the specific provision of this Ordinance for which a variance is sought.
- 71.3 The CEO, upon certifying that the requirements of subsection 71.2 above have been met, shall place the request on the Commission's agenda for a public hearing, which permits sufficient time for fifteen (15) days notice.
- 71.4 The CEO shall prepare a staff report containing his recommendation regarding the appeal. This report shall be provided to the Commission and the applicant no later than five (5) days prior to the public hearing at which the application for a variance will be considered.
- 71.5 A variance may be granted if strict enforcement of the Ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of this Ordinance will be observed and public safety and welfare secured. This conclusion may be reached if any one (1) or more of the following findings can be made:
- 71.5.1 If the applicant complies strictly with the provisions of the Ordinance but can make no reasonable use of his property;
- 71.5.2 The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;
- 71.5.3 The hardship relates to the applicant's land rather than personal circumstances;

- 71.5.4 The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
- 71.5.5 The hardship is not the result of the applicant's own actions;
- 71.5.6 The variance will neither result in the extension of a nonconforming situation in violation of nor authorize the initiation of a nonconforming use of land;
- 71.5.7 The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance and shall not be injurious to the neighboring property owners or otherwise detrimental to the public welfare;
- 71.5.8 The granting of the variance shall not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings; or
- 71.5.9 Financial gain or loss to the applicant shall not be a determining factor in granting or denying a variance request.
- 71.6 Within thirty (30) days following the public hearing, the Commission shall make a written decision, setting forth the reasons for the decision, which shall be accompanied by findings of fact(s) specifying the reason(s) for such decision.
- 71.6.1 In granting variances, the Commission may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. A variance may be issued for an indefinite period of time or for a specified period of time. The nature of the variance and any conditions attached to it shall be entered on the conditional use permit. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.
- 71.7 The decision of the Commission to approve to deny the application for a variance shall be final unless an appeal is taken to the Board as provided herein.

SECTION 72: BENEFICIAL USE DETERMINATIONS

- 72.1 In the event that a property owner in the Village believes that all beneficial use of his property has been denied, or taken by the application of this Ordinance, then s/he shall submit an application for a beneficial use determination under the provisions of this Section. The procedures provided herein shall be used prior to seeking any other relief in order that any denial of beneficial use of property may be possibly so remedied.

- B. The potential for damage to either residents or property shall be assessed in determining a beneficial use. Conditions shall be placed on sites where damage from building or hazardous conditions is likely. The conditions may include location restrictions, size limitation, and construction practices and shall require a building to be built so it will not be damaged.

72.7 The Commission shall make its decision by resolution. The decision of the Board shall be final and conclusive.

SECTIONS 73-74: RESERVED

ARTICLE H. AMENDMENTS AND APPEALS

SECTION 75: AMENDMENT TO THIS ORDINANCE

75.1 Boundaries of the zoning districts established by this Ordinance, the classifications of property use therein or other provisions of this Ordinance may be amended whenever public necessity, convenience and general welfare require.

75.2 Amendments to this Ordinance or the Map may be initiated by:

75.2.2 The verified application of one (1) or more property owners proposing to be rezoned or

75.2.3 Motion of the Board or the Commission.

75.3 The Commission shall conduct at least one(1) public hearing on the application to amend this Ordinance or the Map.

75.4 The Commission shall announce its findings not later than the next regular meeting following the closing of the public hearing unless this time limit is extended by agreement of the parties having an interest in the proceedings. The resolution shall recite the facts and reasons which, in the opinion of the Commission, make the approval or denial of the amendment necessary to carry out the general purpose of this Ordinance, and the relationship of the proposed zone change or amendment to applicable Village plans and policies.

75.4.1 Within fifteen (15) days from the date of their action, the Commission shall notify the applicant by forwarding a copy of the resolution to the applicant and to the Board.

75.5 The Board shall conduct at least one (1) public hearing on the application to amend this Ordinance or the Map following receipt of the resolution from the Commission.

considered to be the lowest intensity in the Village or adjoining areas but which uses still provide for occupation and living by the property owner. These land uses shall be considered beneficial uses.

72.5.3 Whether the property is being singled out for different treatment than similarly situated properties under this Ordinance.

72.5.4 If such a governmental subsidy exists for the property, then it should be reflected in considering minimum beneficial use on a valuation basis. The public costs of a subsidy should be considered as a payment to the property owner for the restriction on the property if there is an annual subsidy that enhances the economic return of the existing use to the property owner.

72.5.5 The extent to which the regulations protect users or neighbors from threats to health or safety shall be fully accounted for. A use that seriously threatens the health of future residents or neighbors is not a beneficial use.

72.5.6 Pure expectations, in general, shall not be considered. Only expectations backed by investments made prior to the adoption of the restrictions in question that are substantially above the cost of the land and normal planning investments shall be considered.

72.5.7 In no case shall a use that is a nuisance per se or a use that in that particular location constitutes a nuisance be granted relief. Such uses are not legal uses of the land, and thus no taking of the beneficial use of the land would occur.

72.6 If the Commission finds that property owner has been denied all beneficial use of his property, then the following relief may be granted:

72.6.1 The property owner shall be given the minimum increase in development intensity or other possible concessions from this Ordinance in order to permit a beneficial use of the land. The highest use, or even an average reasonable expectation, is not required or intended as the appropriate remedy. The following guidelines shall be used for determining the minimum beneficial use of property and, therefore, the amount of relief to be granted a property owner.

A. The limited development potential, given the natural condition of the property, shall not be attributed to the regulations applied to the property. If the property is such that it cannot safely accommodate development with normal grading and clearing practices, this fact shall be taken into account in identifying the best site for development that minimizes costs of development.

- 72.2 The purpose and intent of this section of Ordinance is that every property owner in the Village should enjoy a beneficial use of his property. A beneficial use determination will be a process by which the Village evaluates the allegation that there is no beneficial use, and can provide relief from the regulation by granting additional development potential to permit a beneficial use of the property. However, it is also the intent of this Section that such relief not increase the potential for damaging the health, safety, or welfare of future users of the property or neighbors that might reasonably be anticipated if the property owner was permitted to build.
- 72.3 The notice requirements and public hearing procedures for a beneficial use determination shall be the same as that provided for variances as herein.
- 72.4 The nature of this request requires detailed financial information on the property that is not required or desired in normal applications. The following data shall accompany all application for a beneficial use determination:
- 72.4.1 Documentation of the date of purchase and the purchase price of the property;
- 72.4.2 A description of the physical features present on the property, the property's total acreage, and the present use of the property, and the use of the property at the time of the adoption of this Ordinance;
- 72.4.3 A description of the specific portions of the regulations which are alleged to result in an elimination of all beneficial use of the property together with all appraisals, studies, any other supporting evidence, and any actions taken by the Village related to the property; and
- 72.4.4 A description of the use which the property owner believes represents the minimum beneficial use of the property and all documentation, studies, and other evidence supporting that position.
- 72.5 In determining if a property owner has been deprived of beneficial use of his property, the Commission shall take into account the following factors:
- 72.5.1 The value of the property prior to adoption of this Ordinance which caused the property owner to apply for relief shall be compared to the value of the property with the regulations as applied. A mere diminution in value does not deprive the property owner of a beneficial use; the diminution must be so drastic that it effectively deprives the property owner of any significant use or enjoyment of the property.
- 72.5.2 A use common to the Village and/or the area of the subject site, although it may not involve further development of the land, is considered a beneficial use. Attention shall also be given to land uses that are

- 75.5.1 The Board may approve, modify or disapprove the recommendation of the Commission, provided that the Board may, because of a desire for additional information, or due to the submission of significant new material or evidence, refer any modification of the application back to the Commission for further study and report.
- 75.5.2 The Board shall announce its findings and make its decision by ordinance. The ordinance shall recite the facts and reasons which, in the opinion of the Board, make the approval or denial of the application necessary to carry out the general purposes of this Ordinance and the applicable Village plans and policies.
- 75.5.3 The action by the Board on the application for a zone change or Ordinance amendment shall be final and conclusive.
- 75.5.4 If an application for a zone change is denied by the Board, another request for the same rezoning on the same property shall not be accepted within one (1) year of the denial.

SECTION 76: APPEALS

- 76.1 No permit, certificate or other form of authorization shall be issued for any applications approved pursuant to this Ordinance until the time period to file an appeal has expired.
- 76.2 Any aggrieved person may file an appeal of a decision of the Commission to the Board within twenty (20) days of the decision being appealed. The following persons may be considered aggrieved and deemed to have a personal or monetary interest or property right adversely affected by the decision, which right or interest is more than merely nominal or remote:
 - 76.2.1 The applicant;
 - 76.2.2 Persons who were parties or could have been parties at the public hearing before the Commission;
 - 76.2.3 Persons who own a property interest within 100 feet of the subject-site;
 - 76.2.4 Organized neighborhood association, if the boundaries of the organization include any part of the subject parcel or any land within 100 feet thereof or
 - 76.2.5 The Board by its motion.
- 76.3 Applications for an appeal shall be filed with the Village Clerk and shall state the reasons for the appeal. The reasons shall specifically cite and explain one or more alleged errors:

- 76.3.1 In applying adopted Village plans, policies and ordinances in arriving at the decision;
- 76.3.2 In the facts considered at the public hearing or
- 76.3.3 In acting arbitrarily or capriciously or abusive of discretion.
- 76.3.4 The Board if taking on an appeal on its own motion need not specify an error.
- 76.4 The Board may hold a public hearing and reverse affirm or modify the decision appealed.
 - 76.4.1 If it appears to the Board that some additional evidence is necessary for the proper disposition of the matter, it may allow evidence to be taken.
 - 76.4.2 The Board may remand the matter to the Commission for reconsideration. If the matter is remanded, the Board shall state specifically the matters to be reconsidered and the reasons for the remand on which the action is based.
- 76.5 The Board may state its decision and adopt findings of fact at the conclusion of the public hearing at which the appeal is considered, or the Board may postpone its decision until its next scheduled meeting.
 - 76.5.1 The Board may reverse any order, requirement, decision or determination of the CEO, Planning Administrator or the Commission;
 - 76.5.2 The Board may decide in favor of the appellant or
 - 76.5.3 The Board may make any change in any order, requirement, decision or determination of the CEO, Planning Administrator or the Commission.
- 76.6 Within fifteen (15) days from the date of the decision of the Board, the CEO shall notify the applicant of the decision in writing.
- 76.7 Action by the Board on any appeal shall be final and conclusive.

SECTION 77: RESERVED

ARTICLE I ENFORCEMENT AND VIOLATIONS

SECTION 78: ENFORCEMENT

- 78.1 All departments, officials and public employees of the Village who are vested with the duty or authority to issue permits or undertake enforcement actions pursuant to the terms of this Ordinance shall conform to the provisions of this Ordinance and shall issue no permits or undertake such enforcement actions where the same would conflict with the provisions of this Ordinance.
- 78.2 It shall be the duty of the Planning Administrator, the CEO or their designated

- agents to enforce or cause to be enforced the provisions of this Ordinance.
- 78.3 Complaints alleging a violation of this Ordinance shall be in writing and presented to the CEO.
- 78.31 The CEO shall make a preliminary investigation of the complaint and inform the complainant in writing what actions have been or will be taken.
- 78.32 The CEO may request the assistance of the Planning Administrator and/or the Village Attorney (through the Village Manager) during the investigation.
- 78.33 The CEO shall make written report to the commission concerning all complaints he has received and all actions taken in response to those complaints.
- 78.4 If the CEO determines that any provision of this Ordinance is being violated, she will send a written notice (by certified mail, return receipt requested) to the property owner, indicating the nature of the violation and ordering the action necessary to correct it. Actual receipt of the notice by the property owner is not required.
- 78.4.1 The notice shall establish a reasonable time limit for abatement of the violation, which limit shall not be less than two (2) days for more than fifteen (15) days. The first notice shall be in the form of a violation notice.
- 78.4.2 The property owner may request an extension of time within which to comply. The request shall be in writing and the decision to grant or deny an extension shall be within the discretion of the CEO. His/her decision will be in writing.
- 78.4.3 Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety or general welfare, the CEO may seek enforcement without prior written notice.
- 78.5 An inspection will be conducted by the CEO or his designee following the expiration of the time specified above. If compliance is still not met, the CEO will either proceed with the abatement of the nuisance or with the filing of a complaint in the local Municipal Court.
- 78.6 Within the scope of his authority, the CEO or his authorized inspector(s) may conduct an inspectorial search, with the voluntary consent of an occupant or custodian of the premises, who reasonably appears to the CEO to be in control of the places to be inspected or otherwise authorized to give such consent.
- 78.6.1 Before requesting consent for an inspectorial search, the CEO shall inform the person to whom the request is directed of the authority under and purposes for which the inspection is to be made and shall, upon demand, exhibit an identification card or document evidencing his authority to make such inspections.
- 78.6.2 Inspections undertaken pursuant to this section shall be carried out with due regard for the convenience and privacy of the occupants, and during

the daytime unless, because of the nature of the premises, the convenience of the occupants, the nature of the possible violation or other circumstances, there is a reasonable basis for carrying out the inspection at night.

78.6.3 Unless advance notice would be likely to cause the suspected violation to be temporarily eliminated so as to frustrate enforcement, notice of the purpose and approximate time of an inspectorial search of an area not open to the general public shall be sent to the occupants or custodians of the premises not less than seven (7) days before the inspection is undertaken.

78.7 Upon sufficient showing that required consent to an inspectorial search has been refused or is otherwise unobtainable within a reasonable period of time, the CEO may make application for an inspection order/search warrant. Such application shall be made to the district court having jurisdiction over the premises to be searched.

78.7.1 Such application shall set forth:

- A. The particular premises or portion thereof sought to be inspected;
- B. That the owner or occupant of the premises has refused entry;
- C. That inspection of the premises is necessary to determine whether they comply with the requirements of this Ordinance;
- D. Any other reason necessitating the inspection, including knowledge or belief that a particular condition; and
- E. That the CEO or his/her inspector is authorized by the Village to make the inspection.

78.7.2 The application may be granted and the inspection order/search warrant issued upon a sufficient showing that inspection of the particular premises is in accordance with reasonable legislative or administrative standards, and that the circumstances of the particular inspection for which application is made are otherwise reasonable.

78.7.3 The CEO or inspector executing the inspection order/search warrant shall, if the premises in question are unoccupied at the time of execution, be authorized to use such force as is reasonably necessary to affect entry and make the inspection.

78.7.4 The CEO or inspector conducting the search shall, if authorized by the district court on proper showing, be accompanied by one or more law enforcement officers authorized to serve search warrants.

78.7.5 After execution of the order or after unsuccessful efforts to execute the order, as the case may be, the CEO shall return the order to the district court with a sworn report of the circumstances of execution or failure thereof.

78.8 If compliance is not met by the stated date, a second and final notice will be served in as any other legal process may be served pursuant to law. This second notice will be a Pending Prosecution Notice and/or Notice to Abate.

SECTION 79: VIOLATIONS

79.1 In the event a building or structure is erected, constructed, reconstructed, altered, repaired, converted, maintained or used in violation of this Zoning Ordinance, the CEO, in addition to other remedies, may institute an appropriate action or proceeding to prevent the unlawful action, to restrain, correct, or abate the violation; to prevent the occupation of the building, structure or land; or to prevent an illegal act, conduct, business, or use in or about the premises. Violations of this Ordinance shall be prosecuted in the manner provided by law in order to ensure the health, safety and welfare of the citizens of the Village. The remedies provided for herein shall be cumulative and not exclusive.

79.2 Declaration of Nuisance. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Ordinance and/or any use of any land, building or premises conducted, operated or maintained contrary to the provisions of this Ordinance shall be and the same is hereby declared to be unlawful and public nuisance and the Village attorney shall, upon order of the Board, immediately commence action or proceedings for the abatement and removal and injunction thereof in the manner provided by law and shall apply to such court as may have jurisdiction to grant such relief as will abate and remove such building or structure and restrain and enjoin any person, firm or corporation from setting up, erecting, building, maintaining or using any such building or structure or using any property contrary to the provisions of this Ordinance.

79.3 Abatement. The Notice to Abate shall include the following:

79.3.1 An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.

79.3.2 The location of the nuisance.

79.3.3 A description of what constitutes the nuisance.

79.3.4 A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the Village will abate the nuisance and assess the cost thereof against the property owner and any applicable property.

79.4 Upon the failure of the person upon whom notice to abate a nuisance was served, the CEO or his designee shall proceed to secure abatement of the same and shall prepare a statement of costs incurred in the abatement action.

79.5 Any and all costs incurred by the Village in the abatement of a nuisance under the

provisions of this Ordinance shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided by law. Such lien shall be notice to all persons from the time of the recording, and shall bear interest at the legal rate thereafter until satisfied.

79.6 Except as herein provided, an action for the abatement of a public Nuisance shall be governed by the general rules of civil procedure.

79.6.1 A civil action to abate a public nuisance may be brought, by verified complaint in the name of the Village without cost, by any public officer or private citizen, in the local Municipal Court against any person who shall create, perform or maintain a public nuisance.

79.6.2 When judgment is against the defendant in an action to abate a public nuisance, he shall be adjudged to pay all court costs and a reasonable fee for the complaint's attorney.

79.6.3 If the Municipal Judge places a person violating this Ordinance on probation, one of the conditions of probation shall be the abatement of the nuisance within the time period of the probation.

79.7 Prosecution: Violation of the provisions of this Ordinance may be enforced by prosecution in Municipal Court pursuant to §3-17-1 NMSA 1978. Prosecution of violations under this Section may be commenced by the issuance of a citation charging the violation as provided herein.

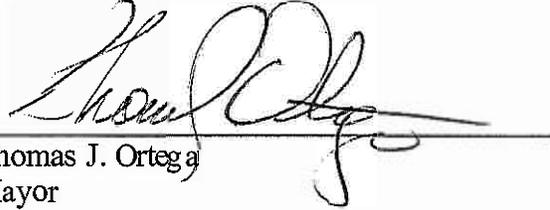
79.8 Permit Revocation: Any discretionary permits issued by the Village pursuant to the provisions of this Ordinance may be revoked if the permit recipient fails to develop or maintain the property in accordance with the approved plans, the requirements of this Ordinance, or any additional conditions or requirements lawfully imposed upon the permit.

79.8.1 Before a permit may be revoked, the permit recipient shall receive notice of a hearing before the Commission to consider revocation of a permit. The notice shall inform the permit recipient of the date, time and place of the hearing as well as the alleged grounds for revocation.

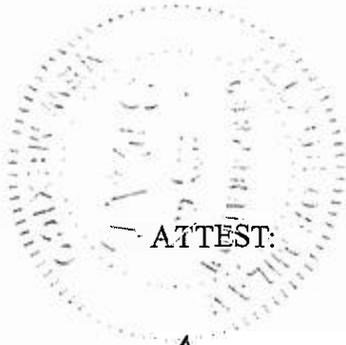
79.8.2 A decision to revoke the permit shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the decision.

79.8.3 No person may continue to make use of land or buildings in the manner authorized by the permit after such permit has been revoked in accordance with this Section.

This ordinance is passed, adopted and approved by the Village of Milan Board of Trustees on March 22, 2007 and is effective on April 9, 2007.



Thomas J. Ortega
Mayor



ATTEST:



Theresa A. Garcia, Village Clerk

TABLE 1 - USES FOR ALL DISTRICTS

| TYPE OF LAND USE | A-R | R-1 | R-2 | C-1 | C-2 | M-1 | P-1 |
|--|-----|-----|-----|-----|-----|-----|-----|
| Accessory Building | X | X | X | X | X | X | X |
| Accessory Dwelling Unit | C | C | C | C | | | |
| Agricultural | X | | | | | | |
| Ambulance Service (including Emergency Medical Services) | | | | X | X | X | X |
| Amusement/Recreation Establishment (Indoor) | | | | C | C | | |
| Amusement/Recreation Establishment (Outdoor) | | | | C | C | | |
| Animal Hospital | C | | | C | C | C | |
| Antique Shop | | | | X | X | | |
| Apartment | | | X | C | C | | |
| Art Studio/Gallery | | | | X | | | |
| Assembly/Manufacturing Plant | | | C | C | C | | |
| Automobile Repair Body Shop (within enclosed building) | | | C | C | C | | |
| Auto Supply Store | | | | X | X | | |
| Bakery | | | | X | X | | |
| Bank/Financial Institution | | | | X | X | | |
| Bar | | | C | C | C | | |
| Barber Shop/Beauty Shop | | | X | X | | | |
| Bed and Breakfast Establishment | C | C | C | C | C | | |
| Book Store | | | | X | | | |
| Bowling Alley | | | | X | | | |
| Building Materials Sales & Storage | | | | X | X | | |

| TYPE OF LAND USE | A-R | R-1 | R-2 | C-1 | C-2 | M-1 | P-1 |
|-------------------------------|-----|-----|-----|-----|-----|-----|-----|
| Car Wash/Truck Wash | | | | C | X | | |
| Cemetery | C | | | C | C | | C |
| Chemical Supply Establishment | | | | | | C | |
| Children's Day Care Center | | C | C | X | | | |

| | | | | | | | |
|---------------------------------|---|---|---|---|---|---|---|
| Christmas Tree Lot | T | T | T | T | T | T | |
| Church or Religious Institution | C | C | C | C | C | C | |
| Clothing Sales or Service | | | | X | X | | |
| Commercial Garage | | | | | X | X | |
| Commercial Parking Lot | | | | X | X | X | X |
| Community Center | | C | C | | | | X |
| Condominium Residential Units | | | X | | | | |
| Dairy | C | | | | | | |
| Department Retail Store | | | | X | X | | |
| Duplex Residential Units | | | X | | | | |
| Family Care Facility | C | C | C | | | | |
| Farm | X | | | | | | |
| Feed Store | X | | | X | X | X | |
| Firewood Sales & Storage | | | | | | X | |
| Flea Market/Outdoor Booth Sales | | | | | T | T | |
| Florist | | | | X | X | | |
| Food Processing Plant | | | | | | C | |
| Funeral Services | | | | X | X | | |
| Furniture Sales or Service | | | | X | X | | |

| TYPE OF LAND USE | A-R | R-1 | R-2 | C-1 | C-2 | M-1 | P-1 |
|---|-----|-----|-----|-----|-----|-----|-----|
| Gas Station | C | | | X | X | X | |
| General Building Contractors | C | | | C | C | X | |
| Gift Shop | | | | X | X | | |
| Grocery Store or Deli | | | | X | X | | |
| Gymnasium/Health Club | | | | C | C | | |
| Hardware Store | | | | X | X | X | |
| Hazardous Waste Transport, Recycling Processing or Storage Facility | | | | | C | | |
| Home Occupations | C | C | C | | | | |
| Home Health Care Services | | | | X | X | | |

| | | | | | | | |
|------------------------------|---|--|---|---|---|---|---|
| Hospital, Clinic, Rest Home | C | | | | X | | C |
| Hotel/Motel | | | | X | X | C | |
| Household Appliance Store | | | | X | X | | |
| Junkyard | | | | | | C | |
| Kennel | C | | C | C | C | C | |
| Laundromat | | | | X | X | | |
| Library | | | | X | X | | X |
| Liquor Store | | | | X | X | | |
| Locker Storage and Rental | | | | C | C | X | |
| Lodge/Club/Fraternal Hall | | | | X | X | | |
| Lumber Yard | | | | | | X | |
| Machine Shop | | | | | | X | |
| Manufacturing/Assembly Plant | | | | C | C | C | |

| TYPE OF LAND USE | A-R | R-1 | R-2 | C-1 | C-2 | M-1 | P-1 |
|--|-----|-----|-----|-----|-----|-----|-----|
| Medical/Dental Office or Clinic | | | | X | X | | |
| Mobile Home, Manufactured Housing | C | C | X | | | | |
| Mobile Homes | | | X | | | | |
| Mobile Home Dealers | | | | | X | | |
| Mobile Home Park/Trailer Court | | | | | C | C | |
| Mortuary/Crematory | | | | X | X | | |
| Multiple Family Dwelling | | | X | C | | | |
| Museum | | | | X | X | | X |
| Nurseries and Garden Stores | X | | | X | X | | |
| Pawn Shop | | | | X | X | | |
| Photographic Studio | | | | X | X | | |
| Plumbing or Heating Supply or Service | | | | X | X | | |
| Printing Shop | | | | X | X | | |
| Professional Offices (other than medical and dental) | | | | X | X | | |
| Public Utility Offices | | | | C | X | | X |

| | | | | | | | |
|---------------------------------|---|---|---|---|---|---|--|
| Public Utility Equipment Yards | | | | | | X | |
| RV & Trailer Park | | | C | | | C | |
| Ranch | X | | | | | | |
| Real Estate Sales Office | T | T | T | X | X | X | |
| Research & Development Facility | | | | | | C | |
| Residential, Multi-Family | | | X | C | | | |
| Residential, Single Family | X | X | X | C | | | |

| TYPE OF LAND USE | A-R | R-1 | R-2 | C-1 | C-2 | M-1 | P-1 |
|---|-----|-----|-----|-----|-----|-----|-----|
| Restaurant | | | | X | X | C | |
| Sale of Farm Products (grown on site) | X | | | | | | |
| School (public or private) | C | C | C | C | C | C | X |
| Sheet Metal Fabrication | | | | | | X | |
| Signs (as pennissible under Section 39) | X | X | X | X | X | X | X |
| Social Services | | | | X | X | | X |
| Television Repair Shop | | | | X | X | | |
| Travel Agency | | | | X | X | | |
| Travel Trailer/Camping Facility RV Park | | | | | X | C | |
| Truck Service Station or Terminal | | | | | C | C | |
| Truck Storage or Parking Yard | | | | | | C | |
| Vehicle Dealership, new or used | | | | X | X | X | |
| Video Tape Rental and Sales | | | | X | X | | |
| Warehouse Storage Facility | | | | C | C | X | |
| Welding Facility | | | | | | X | |
| Wholesale Trading Establishment | | | | | C | X | |

X = PERMITTED-BY-RIGHT
C = CONDITIONALLY PERMITTED
T-TEMPORARY PERMIT REQUIRED

| TABLE2 | |
|--|--------------------|
| Hazardous Materials Stockpile Definition | |
| Material* | Minimum Quantity** |
| Carcinogens | 10 pounds |
| Combustibles | 55 gallons |
| Flammable liquids | 55 gallons |
| Corrosive liquids | 55 gallons |
| Highly toxic liquids & solids | Any Amounts |
| Oxidizing liquids | 55 gallons |
| Oxidizing solids | 500 pounds |
| Other health hazards | |
| Liquids | 55 gallons |
| Solids | 500 pounds |
| Toxic Liquids | 55 gallons |
| Toxic Solids | 55 gallons |
| <p>* Additional information regarding this classification of hazardous materials is provided in the current edition of the 10991 Uniform Fire Code</p> <p>** Quantities (stored or handled in crucial areas) exceeding this amount is subject to permit requirements</p> | |

**TABLE 3
PROCEDURAL CHART**

D=Decides

R=Recommends

(H)=Public Hearing

A=Appeal

| TYPE OF APPLICATION | Code Enforcement Officer | Commission | Board |
|--|--------------------------|------------|-------|
| Amendment of Zoning Ordinance | | R (H) | A (H) |
| Amendment of the Official Zoning Map | | R (H) | A(H) |
| Appeals | | A(H) | A(H) |
| Beneficial Use Determinations | R | R(H) | A(H) |
| Conditional Use Permit | R | D (H) | A(H) |
| Home Occupation Permits | R | A(H) | A(H) |
| Interpretation of the Zoning Ordinance | D | A | A(H) |
| Mobile Home Installation Permits | D | A(H) | A(H) |
| Signs Permits | D | A(H) | |
| Site Plan Review Certification | D | A (H) | A(H) |
| Variance | R | A (H) | A(H) |

**FLOOD DAMAGE PREVENTION ORDINANCE
ORDINANCE NO.**

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of New Mexico has in § 3-18-1 et seq. and 3-41-1 et seq. NMSA 1978 delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of Trustees of the Village of Milan, New Mexico does ordain as follows:

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of the Village of Milan ("Village") are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

(7) Insure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance uses the following methods:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

ARTICLE 2

DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPURTENANT STRUCTURE - means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

AREA OF FUTURE CONDITIONS FLOOD HAZARD - means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

BASE FLOOD - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

BASEMENT - means any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING - means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the Village.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION STUDY - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - see *Flood Elevation Study*

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY - see *Regulatory Floodway*

FUNCTIONALLY DEPENDENT USE - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship

repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior or;

(b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations (44 CFR §60.3).

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections, (iii) designed to be self-propelled or permanently towable by a light

duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

RIVERINE - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA - see *Area of Special Flood Hazard*

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or

exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE - means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations [44 CFR §60.6].)

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations (44 CFR § 60.3(b)(5) §60.3(c)(4), § 60.3(c)(10), §60.3(d)(3), §60.3(e)(2), §60.3(e)(4), or §60.3(e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the North American Vertical Datum (NAVD) on 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE 3

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Village of Milan.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study for the Village of Milan, Cibola County" dated December 17, 2010 (FIRM).

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

ARTICLE 4

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Code Enforcement Officer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.

(2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this ordinance.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the New Mexico Department of Homeland Security and Emergency Management prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.

(9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community first completes all of the provisions required by Section 65.12.

SECTION C. PERMIT PROCEDURES

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);

(d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(e) Maintain a record of all such information in accordance with Article 4, Section (B)(1);

(2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

(a) The danger to life and property due to flooding or erosion damage;

(b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(c) The danger that materials may be swept onto other lands to the injury of others;

(d) The compatibility of the proposed use with existing and anticipated development;

(e) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(h) The necessity to the facility of a waterfront location, where applicable;

(i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

SECTION D. VARIANCE PROCEDURES

(1) The Village Board of Trustees shall hear and render judgment on requests for variances from the requirements of this ordinance. The Village Board of Trustees may refer the request for a variance to the Village Planning and Zoning Commission for its recommendation prior to Board of Trustees consideration.

(2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

(3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this ordinance, the Board of Trustees may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and

the variance is the minimum necessary to preserve the historic character and design of the structure.

[10] Prerequisites for granting variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued by the Village of Milan for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D (1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE 5

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

(1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C (1) a. is satisfied.

(2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic

loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than 1 foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) **Manufactured Homes** -

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-S0, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new

manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

(i) the lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

(2) All new construction and substantial improvements of **non-residential** structures;

(a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or

(b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural

components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C are satisfied.

(4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

SECTION E. FLOODWAYS

Floodways - located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

(3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12.

SECTION F. SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION G. PENALTIES FOR NON COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$300 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Village of Milan from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION H. EFFECTIVE DATE

This ordinance shall take effect no sooner than five (5) days after it has been adopted by the Village's Board of Trustees and then published as provided by law.

SECTION I. CERTIFICATION OF ADOPTION

APPROVED: *Thomas Amateclas Jr*
Thomas Ortega
Mayor

PASSED: December 6, 2010

ORDINANCE BECOMES EFFECTIVE: December 15, 2010

I, the undersigned, Natalie Griné, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the Board of Trustees, at a special meeting duly convened on December 6, 2010.

Natalie Griné
Natalie Griné
Village Clerk



PUBLIC NOTICE

**Milan-Cibola County
New Mexico**

NOTICE IS HEREBY GIVEN that at a monthly meeting of the Village of Milan Board of Trustees on Monday, December 6, 2010, at 8:00 a.m. at Village Hall, 623 Uranium Ave., Milan, the following Ordinance was adopted:

ORDINANCE #232
Ordinance #232 an Ordinance for Flood Damage Prevention.

This Ordinance shall take effect five (5) days after this publication of its adoption.

To obtain a copy of the ordinance or for further information please contact the Village Clerk at 623 Uranium Ave., Milan, New Mexico or 285-6694.

Published in the Cibola County Beacon, December 7, 2010
Invoice #11068.

PUBLIC NOTICE

Milan-Gibola County
New Mexico

NOTICE IS HEREBY GIVEN that at a special monthly meeting of the Village of Milan Board of Trustees on Monday, December 6, 2010, at 8:00 a.m. at Village Hall, 623 Uranium Ave., Milan, the following ordinance will be presented for adoption:

ORDINANCE #232
an Ordinance for Flood Damage Prevention.

This ordinance shall become effective five days after publication of its adoption.

To obtain a copy of the ordinance or for further information please contact the Village Clerk at 623 Uranium Ave., Milan, New Mexico or 285-6694.

Published in the Gibola County Beacon
November 19, 2010
Invoice #10774

LEGAL NOTICE
Milan-Cibola County
New Mexico

NOTICE IS HEREBY GIVEN that at a special monthly meeting of the Village of Milan Board of Trustees on Monday, December 6, 2010 at 8:00 a.m. at Village Hall, 623 Uranium Ave., Milan, New Mexico, the following ordinance will be presented for adoption:

ORDINANCE #232, An Ordinance for Flood Damage Prevention.

This ordinance shall become effective five days after publication of its adoption.

To obtain a copy of the ordinance or for further information please contact the Village Clerk at 623 Uranium Ave. Milan, New Mexico or 285-6694.

**VILLAGE OF MILAN
AN ORDINANCE TO CONTROL STRUCTURAL AND VISUAL
NUISANCES, ACCUMULATION OF DEBRIS AND CONTROL OF WEEDS**

ORDINANCE NO. 234

PURPOSE

WHEREAS the Village of Milan has a desire to promote, as a matter of public policy:

- A. Fostering civic pride and respect in the Village's appearance and future.
- B. Maintaining and improving property values.
- C. Protecting and enhancing the Village's attraction to residents, tourists and visitors.
- D. Promoting the integrity, safety and appearance of such structures, property, sites, buildings, houses and incidental appurtenances for the general welfare of the Village.
- E. Fostering and encouraging preservation, restoration and rehabilitation of structures, properties, buildings, homes, sites and incidental appurtenances thereby preventing structural blight.

THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF MILAN:

1. AUTHORITY

This ordinance is enacted pursuant to NMSA 1978, Section 3-17-1 et seq. and Section 3-18-1 et seq.

2. DEFINITIONS

Unless specifically defined below, words or phrases in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application:

BOARD OF TRUSTEES: The governing body of the Village of Milan.

BUILDING: Any building, house, site, structure or property used for commercial or residential purposes.

DEBRIS: The remains of anything broken down or destroyed, rubbish, trash, litter,

garbage, or wreckage including an Inoperable Motor Vehicle which is allowed to accumulate or remain on property for a period of time longer than is reasonably required to remove it and is visible from a public street or from an adjacent property.

FAILURE TO CONTROL WEEDS: Permitting or maintaining on any lot or land any growth of Weeds to a height greater than eight inches (8") or allowing the accumulation of Weeds so as to constitute a potential fire or health hazard or a nuisance, whether public or private.

GENDER: Words importing the masculine gender shall include the feminine and neuter.

INOPERABLE MOTOR VEHICLE: Any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.

MAY: Permissive.

SHALL: Mandatory.

STRUCTURE, SITE, BUILDING, PROPERTY OR INCIDENTAL APPURTENANCE: Anything already constructed, to be constructed or erected in the Village, the use of which requires permanent or temporary location on or in the ground, including, without limiting the generality of the foregoing, houses, buildings, mobile homes, garages, out buildings, sheds, fences, gazebos, signs, radio and television antennas, including supporting towers, and any other structures or buildings or activities that would normally be allowed within the Village corporate limits.

STRUCTURAL NUISANCE: Any Structure, Property, Building, Site or Incidental Appurtenance which is not property maintained:

- A. Generally, the appearance and condition of the house, building or structure is not maintained to present a safe and attractive streetscape to passersby; or
- B. A minimum of ten percent (10%) of the exterior facade exhibits peeling paint, damaged stucco, or other deteriorated exterior visible surfaces; or
- C. In the case of boarded up windows and/or doors, the plywood or other covering is not cut to precisely fit inside the entire window frame and may instead be merely tacked over the approximate location of the wall opening. The covering is not painted a dark ashen grey or black to simulate a typical exterior window color or by some other color in keeping with the building

facade. These standards shall apply to the front and in the case of corner structures, the side facing the street or avenue also. Alley exposures shall be exempt.

- D. The roof is not maintained such that roof leaks threaten interior electrical components, interior contents, or create damp interior conditions as to promote mold, mildew or threaten adjacent structures, to include the host structure itself; or
- E. Because of its state of disrepair, the structure is such that it could reasonably cause injury, damage, harm, or inconvenience to the Village or its residents, or to residents in the use and enjoyment of surrounding property, taking into consideration the nature and use of the properties in the area and the character of the Village in which it is situated, or which condition would be substantially offensive and annoying to persons of ordinary sensibilities, tastes, and habits.

VILLAGE: Village of Milan, New Mexico.

VILLAGE CLERK: The Village Clerk of the Village of Milan.

VILLAGE MANAGER: The Village Manager of the Village of Milan or his/her designee.

WEEDS: All rank, noxious, poisonous, harmful, unhealthful vegetation, deleterious to health, and shall include, but is not limited to, the following named plant families: Mustard Weeds (Brassicaceae), Pigweeds (Amaranthaceae), Russian thistle (Chenopodiaceae), Ragweeds (Asteraceae) and Kochia (Chenopodiaceae).

3. **PROHIBITED:**

It shall be unlawful for any person, corporation or entity as subject to this Ordinance (1) to cause, permit or maintain a Building in need of exterior repair such as defined above as a Structural Nuisance, (2) to allow Debris to accumulate as above defined or (3) to fail to control Weeds on any lot or tract of land within the Village as herein provided.

4. **POWER TO ADD ADDITIONAL PLANTS TO DEFINITION:**

The Village Manager is hereby authorized and delegated the authority and duty to determine if any other plants, due to their unhealthy or dangerous attributes or consequences, should be placed on the list of Weeds as defined herein and shall put such plants on said list if, after a hearing based on the evidence before him/her, it appears that such plants do come within the meaning of the term Weeds as hereinbefore set out.

5. **DUTY OF OWNER, LESSEE OR OCCUPANT WITH REGARD TO WEED CONTROL:**

A. It shall be the duty of any owner, lessee or occupant of any occupied or unoccupied lot or tract of land to cut the Weeds and remove the cuttings or any accumulation of Weeds to be removed as often as necessary in order to comply with the provisions set out in this Ordinance.

B. The approved method of controlling Weeds shall be mowing, cutting, digging or other methods designed to remove the Weeds but not to disturb other vegetation or unnecessarily to disturb the soil. The scraping and tillage of lots and tracts of land is prohibited unless permission of the Village Manager is first obtained; except, that scraping and tillage as part of normal construction activities or as ground preparation for agriculture or landscaping activities shall be allowed. The Village Manager shall also allow scraping and tillage of lots or tracts of land when this will not detract from or violate the clear intent and purpose of this Ordinance.

C. Any lot or tract of land within the city which has never been scraped or tilled and left in a natural state with native vegetation shall not be considered Weeds as herein defined. If a lot or tract of land which has been scraped, tilled or otherwise disturbed is successfully re-seeded and replanted with native grasses, shrubs and trees and the Village is notified of such action, the Village shall not consider such reclamation efforts as Weeds.

6. **ALTERNATIVE ABATEMENT NOTICE; HEARING:**

A. Provisions Alternative to Other Provisions: The provisions of this section shall be in the alternative to any other provisions of this ordinance; and in particular, for absentee owners of structures or in cases where fines prove ineffective in achieving compliance from resident owners.

B. Written Or Published Notice: Whenever a Structural Nuisance, Debris or Weeds as defined in this ordinance are found to exist on a property within the Village, the Village Manager shall give written or published notice to the owner, his/her agent, lessee or occupant of the property upon which said Structural Nuisance, Debris or Weeds exists or upon the person causing or maintaining the Structural Nuisance, Debris or Weeds; provided, however, that failure of the Village Manager to give such notice shall not constitute a defense to any action brought to enforce this action.

C. Abatement; Agreement To Correct Or Remove: Every person, including the owner or his agent, tenant, lessee or occupant of the property where such Structural Nuisance, Debris or Weeds exist, shall abate and remove any such

Structural Nuisance, Debris or Weeds by the correction or removal of the Structural Nuisance or Debris or Weeds within ten (10) days of being given notice as set forth in subsection B of this section, or by entering into a written agreement with the Village for the correction or removal of the Structural Nuisance, Debris or Weeds within said ten (10) day period or, if appealed, within ten (10) days of the decision of the Board of Trustees if the appeal is denied.

D. Agreement Stays Time Limitation: If an agreement is entered into within the ten (10) day period, the time limits of this section shall be stayed.

E. Request For Hearing: If the person so cited disagrees with the decision made by the Village Manager, that person shall have the right to request a hearing before the Board of Trustees within a ten (10) day period after the rendering of a decision, in writing, by the Village Manager. If a request for hearing is made within the ten (10) day period, the time limits of this section shall be stayed pending a decision by the Village Board of Trustees. Said person shall have ten (10) days from the decision by the Village Manager to file with the Village Clerk a written appeal to the Board of Trustees.

7. CONTENTS OF NOTICE:

The notice to abate or remove a Structural Nuisance, Debris or Weeds issued under the provisions of this ordinance shall contain:

A. An order to abate or remove the Structural Nuisance, Debris or Weeds or to request a hearing before the Board of Trustees within ten (10) days after written or published notice.

B. The location of the Structural Nuisance, Debris or Weeds, if the same are stationary.

C. A description of what constitutes the Structural Nuisance, Debris or Weeds.

D. A statement that if the Structural Nuisance, Debris or Weeds is not abated or removed as directed and if no request for hearing is made within the prescribed time, the Village may abate or remove such Structural Nuisance, Debris or Weeds and assess the costs thereof against such person, or take any other action as allowed by this ordinance.

8. SERVICE OF NOTICE:

The notice to abate or remove a Structural Nuisance, Debris or Weeds issued under the provisions of this ordinance shall be served as any other legal process may be served

pursuant to law.

9. ABATEMENT BY VILLAGE:

Upon the failure of the person upon whom notice to abate or remove a Structural Nuisance, Debris or Weeds was served pursuant to the provisions of this ordinance to abate or remove the same or if appealed and the appeal is ultimately denied, the designated officer of the Village may proceed to abate or remove such Structural Nuisance, Debris or Weeds and shall prepare a statement of costs incurred in the abatement or removal thereof.

10. VILLAGE'S COSTS DECLARED LIEN:

Any and all costs incurred by the Village in the abatement or removal of a Structural Nuisance, Debris or Weeds under the provisions of this ordinance shall constitute a lien against the property upon which such Structural Nuisance, Debris or Weeds existed, which lien shall be filed, proven and collected as provided by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the rate of fifteen percent (15%) per annum thereafter until satisfied.

11. PENALTY:

A. Violation; Penalty: Whenever in this ordinance an act is prohibited or is made or declared to be unlawful or whenever in this ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, the violator shall be deemed guilty of a petty misdemeanor and shall be subject to be jailed up to ninety (90) days or fined up to Five Hundred Dollars (\$500.00) or both.

B. Continuing Violation; Separate Offense: Each day any such violation or failure to perform such act shall continue shall constitute a separate offense and is a separate violation of this ordinance, unless otherwise specifically provided.

C. Penalty Not Exclusive: The provisions of the penalties in this section shall not be deemed a waiver of the rights of the Village to invoke the equity jurisdiction of the district court in compelling abatement of any condition which constitutes an structural nuisance or removal of any Debris or Weeds under this ordinance.

D. Rules Of Civil Procedure: Such action for the abatement of an structural nuisance or removal of any Debris or Weeds shall be governed by the general rules of civil procedure.

E. Civil Action To Abate: A civil action to abate a structural nuisance or to cause or removal of Debris or Weeds may be brought, by verified complaint in the name

of the Village, by any public officer or by any private citizen in the district court against any person who shall create, allow or maintain a structural nuisance or allow Debris or Weeds to accumulate.

F. Court Costs; Plaintiff's Attorney Fees: When judgment is against the defendant in an action pursuant to subsection E of this section to abate a structural nuisance or to cause removal of Debris or Weeds, the defendant shall be adjudged to pay all court costs and a reasonable fee for the plaintiff's attorney.

12. REPEAL OF PRIOR ORDINANCES:

All prior ordinances and specifically Ordinance No. 131 and Ordinance No. 181 to the extent that they are in conflict herewith are repealed upon the effective date of this Ordinance.

13. EFFECTIVE DATE:

This ordinance shall become effective five (5) days after publication as provided by law.



ATTEST

Natalie Griné

Natalie Griné
Village Clerk

Thomas J Ortega
Thomas J Ortega
Mayor

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that a regular monthly meeting of the Village of Milan Board of Trustees on Thursday, June 16th at 6:00 p.m. at Village Hall, 623 Uranium Ave., Milan, New Mexico, and the following ordinance was adopted:

ORDINANCE 3234, an ordinance to Control Structural and Visual Nuisances, Accumulation of Debris and Control of Weeds.

This ordinance shall become effective five days after publication of its adoption.

Copies of the ordinance may

be obtained at the office of the Village Clerk from 8:00 a.m. to 5:00 p.m., Monday through Friday.

Published in the Cibola County Beacon, June 21, 2011. Invoice #11440.

**PUBLIC NOTICE
NOTICE OF INTENT
TO ADOPT
ORDINANCE**

NOTICE IS HEREBY GIVEN that on the 16th day of June, 2011, at its regular meeting at 6:00 p.m., in the Village Chambers at the Village Hall, 623 Uranium Street, Milan, New Mexico, the Board of Trustees of the Village of Milan proposes to adopt an ordinance which title reads as follows:
AN ORDINANCE TO

**CONTROL
STRUCTURAL AND
VISUAL NUISANCES,
ACCUMULATION OF
DEBRIS AND
CONTROL OF
WEEDS**

The subject matter of the Ordinance is to address the problem of deteriorating buildings, houses and other structures on properties within the Village by the issuing of citations and removal as deemed necessary, to address the accumulation of debris and garbage on properties within the Village, to control the growth of weeds as therein defined on properties within the Village and to impose

costs, charges and criminal penalties on all such violations.

Copies of the proposed ordinance are available to interested persons during regular business hours in the Office of the Village Clerk, Village Hall, 623 Uranium Street, Milan, New Mexico upon request and payment of a reasonable charge.

/s/Natalie Griné
Natalie Griné,
Village Clerk

Published in the
Cibola County
Beacon May 31, 2011.
Invoice #10784.

**Village of Milan
Ordinance 286**

**AMENDING THE ORDINANCE ADOPTING AND UPDATING THE FLOOD DAMAGE
PREVENTION ORDINANCE PASS ON APRIL 15, 1987 (Ordinance 132) AND
REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT
THEREOF.**

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature has in New Mexico Statutes Amended 1978 Section 3-18-7 required that a county or municipality with identified flood or mudslide hazard areas shall by ordinance:

1. designate and regulate flood plain areas having special flood or mudslide hazards;
2. prescribe standards for constructing, altering, installing or repairing buildings and other improvements under a permit system within a designated flood or mudslide hazard area;
3. require review by the local flood plain manager for development within a designated flood or mudslide hazard area provided final decisions are approved by the local governing body;
4. review subdivision proposals and other new developments within a designated flood or mudslide hazard area to ensure that:
 - a. all such proposals are consistent with the need to minimize flood damage;
 - b. all public utilities and facilities such as sewer, gas, electrical and water systems are designed to minimize or eliminate flood damage; and
 - c. adequate drainage is provided so as to reduce exposure to flood hazards;
5. require new or replacement water supply systems or sanitary sewage systems within a designated flood or mudslide hazard area to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding; and
6. designate and regulate floodways for the passage of flood waters.

Therefore, the Board of Trustees of The Village of Milan, New Mexico does ordain as follows:

SECTION B. FINDINGS OF FACT

1. The flood hazard areas of The Village of Milan are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

ARTICLE II

DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING - means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO or A1-99.

BASE FLOOD - means the flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING - means a non-basement building

1. built, in the case of a building in Zones A, AE, AH, AO, A1-99, B, C, X, and D, to have the top of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and
2. adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. "Elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION- means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of waters.
2. the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a. by an approved state program as determined by the Secretary of the Interior or;
 - b. directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE - is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (c)(4), or (c)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of The Village of Milan, and other floodplain areas that are adopted by the Board of Trustees of the Village of Milan

SECTION B. BASIS FOR ESTABLISHING THE LANDS TO WHICH THIS ORDINANCE APPLIES

1. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the Village of Milan," dated December 17, 2010, with accompanying Flood Insurance Rate Maps and

Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

2. Other floodplain areas may be designated by the Board of Trustees upon request by the Floodplain Administrator. These floodplain areas may be determined in one of two ways:
 - a. Floodplains may be delineated by accepted hydrologic and hydraulic practices; or
 - b. Floodplains may be areas flooded by a historic flood.
3. Before floodplains other than special flood hazard areas designated by the Federal Emergency Management Agency may be adopted, they must be approved by the Federal Emergency Management Agency for floodplain management purposes.
4. If the base flood (100-year flood) has been determined for a stream reach, in no case shall a floodplain be adopted that has a flood elevation lower than the base flood elevation.

SECTION C. ESTABLISHMENT OF A FLOODPLAIN USE PERMIT

A Floodplain Use Permit shall be required to ensure conformance with the provisions of this ordinance.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 200.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Village of Milan from taking such other lawful action as is necessary to prevent or remedy any violation.
(community)

SECTION F. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION G. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

1. considered as minimum requirements;
2. liberally construed in favor of the governing body; and
3. deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION H. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE IV ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Rachel Windhorst is hereby appointed the Floodplain Administrator to administer and (Code Enforcement Officer of the Village of Milan) implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintaining and holding open for public inspection all records pertaining to the provisions of this ordinance.
2. Ensuring that all floodplain use permits are reviewed by a Certified Floodplain Manager.
3. Reviewing development permit applications to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
4. Reviewing and approving or denying all applications for floodplain use permits required by adoption of this ordinance.
5. Reviewing permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
6. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary

and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

7. Notifying, in riverine situations, adjacent communities and the New Mexico Department of Public Safety prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
8. Assuring that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
9. When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
10. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
11. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

SECTION C. FLOODPLAIN USE PERMIT PROCEDURES

Application for a Floodplain Use Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. In Zones A or AO or other designated floodplains where no base flood elevation is provided:
 - a. The elevation of the lowest floor of any building above the highest adjacent grade.
 - b. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - c. Maintain a record of all such information in accordance with Article 4, Section (B)(1).
2. In Zones AE, AH or A1 – A30 or other designated floodplains where a base flood elevation is provided:

- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B(2);
- d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- e. Maintain a record of all such information in accordance with Article 4, Section (B)(1).

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

SECTION D. ELEVATION CERTIFICATES AND FLOODPROOFING CERTIFICATES

1. The Floodplain Administrator shall require that the owner of a new or substantially improved building in a floodplain provide a FEMA Elevation Certificate or a FEMA Floodproofing Certificate for such building prior to issuance of a Certificate of Occupancy.
2. The Floodplain Administrator will review all FEMA Elevation Certificates and Floodproofing Certificates for completeness and correctness.

3. The floodplain Administrator shall maintain a file of all FEMA Elevation Certificates and Floodproofing Certificates and make them available to the public upon request.

SECTION E. VARIANCE PROCEDURES

1. The Board of Trustees of the Village of Milan shall hear and render judgment on requests for variances from the requirements of this ordinance.
2. The Board of Trustees of the Village of Milan shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
3. Any person or persons aggrieved by the decision of the Board of Trustees of the Village of Milan may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
10. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - (1) showing a good and sufficient cause;

- (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- a. the criteria outlined in Article 4, Section D(1)-(9) are met, and
 - b. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE V

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- 1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- 4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

SECTION B. SPECIFIC STANDARDS

- 1. In A Zones and other designated floodplains where no base flood elevation is provided, the following provisions are provided:

- a. **All New Construction** - new construction and substantial improvement of any structure, including manufactured housing, shall be built or placed on compacted fill that is at least two (2.0) feet above the highest adjacent grade prior to any disturbance of the building site. Such fill shall extend at least 10 feet from the walls of the structure before it drops below the two-foot elevation. All residential structures shall have positive drainage away from the buildings. The finished floor of the structure shall be at least one (1.0) foot above the elevation of the fill.
 - b. **Enclosures** - new construction and substantial improvements, with areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which is subject to flooding shall not be enclosed.
2. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Article 3, Section B, Article 4, Section B(8), or Article 5, Section C(3), the following provisions are required:
- a. **All New Construction** – new construction and substantial improvement of any structure, including manufactured housing, shall be built or placed on compacted fill that is at least as high as the base flood elevation. Such fill shall extend at least 10 feet from the walls of the structure before it drops below the base flood elevation. All residential structures shall have positive drainage away from the buildings.
 - b. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C(1)a., is satisfied.
 - c. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
 - d. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which is subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3. Manufactured Homes – *If a community has AO, AH or A1 – A99 Zones on its Flood Insurance Rate Map, or if it has adopted floodplains not those shown on its FIRM, insert Sections 4 and 5 after Section V.B.3 on page 17.*

- a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites
 - outside of an existing manufactured home park or subdivision,
 - in a new manufactured home park or subdivision,
 - in an expansion to an existing manufactured home park or subdivision, or
 - in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood,

be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph 4.a(4) of this section be elevated so that either:
 - the lowest floor of the manufactured home is at or above the base flood elevation, or
 - (1) the lowest floor of the manufactured home is at least one foot above the base flood elevation.
 - (2) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above

grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

4. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use, or
 - c. meet the permit requirements of Article IV, Section C(1), and the elevation and anchoring requirements for "manufactured homes" in paragraph 4.a(4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.
3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION D. STANDARDS FOR UTILITIES

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - a. infiltration of flood waters into the systems, and
 - b. discharge from the systems into flood waters.
2. All new water wells shall:
 - a. Either

- (1) Have the casing extend at least one foot above the base flood elevation; or
 - (2) be sealed so that flood water cannot enter the casing.
- b. Have all electrical controls and devices elevated at least one foot above the base flood elevation or have such electrical controls and devices floodproofed to at least one foot above the base flood elevation.
- 5. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.
 - 6. Septic tanks located within floodplains shall:
 - a. Be anchored to prevent flotation in the event that the ground is saturated from the bottom of the tank to ground level;
 - b. Be sealed so that water will not infiltrate the tank;
 - c. Be sealed so that sewage will not escape the tank; and
 - d. Have one-way valves to prevent sewage from leaving the tank if the tank is inundated and the ground is saturated from the bottom of the tank to ground level.

SECTION E. FLOODWAYS

Floodways - located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- 1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V.
- 3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

ARTICLE VI

SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

CERTIFICATION

It is hereby found and declared by the Village of Milan that severe flooding has occurred in the
(community)
past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

APPROVED, ADOPTED, AND PASSED on this 17th day of May, 2022.

Approved by:

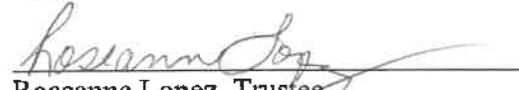
Village of Milan Board of Trustees


Felix O. Gonzales, Mayor


Vivian Brumbelow Mayor Pro Tem


James Mercer, Trustee


Chris Archuleta, Trustee


Roseanne Lopez, Trustee

ATTEST :


Denise Baca, Village Clerk

I, the undersigned, _____, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the Village of Milan, at a regular meeting duly convened on June 16, 2022.

(SEAL)

TABLE 1 - USES FOR ALL DISTRICTS

| TYPE OF LAND USE | A-R | R-1 | R-2 | C-1 | C-2 | M-1 | P-1 |
|--|-----|-----|-----|-----|-----|-----|-----|
| Accessory Building | X | X | X | X | X | X | X |
| Accessory Dwelling Unit | C | C | C | C | | | |
| Agricultural | X | | | | | | |
| Ambulance Service (including Emergency Medical Services) | | | | X | X | X | X |
| Amusement/Recreation Establishment (Indoor) | | | | C | C | | |
| Amusement/Recreation Establishment (Outdoor) | | | | C | C | | |
| Animal Hospital | C | | | C | C | C | |
| Antique Shop | | | | X | X | | |
| Apartment | | | X | C | C | | |
| Art Studio/Gallery | | | | X | | | |
| Assembly/Manufacturing Plant | | | C | C | C | | |
| Automobile Repair Body Shop (within enclosed building) | | | C | C | C | | |
| Auto Supply Store | | | | X | X | | |
| Bakery | | | | X | X | | |
| Bank/Financial Institution | | | | X | X | | |
| Bar | | | C | C | C | | |
| Barber Shop/Beauty Shop | | | X | X | | | |
| Bed and Breakfast Establishment | C | C | C | C | C | | |
| Book Store | | | | X | | | |
| Bowling Alley | | | | X | | | |
| Building Materials Sales & Storage | | | | X | X | | |

| TYPE OF LAND USE | A-R | R-1 | R-2 | C-1 | C-2 | M-1 | P-1 |
|-------------------------------|-----|-----|-----|-----|-----|-----|-----|
| Car Wash/Truck Wash | | | | C | X | | |
| Cemetery | C | | | C | C | | C |
| Chemical Supply Establishment | | | | | | C | |
| Children's Day Care Center | | C | C | X | | | |

| | | | | | | | |
|---------------------------------|---|---|---|---|---|---|---|
| Christmas Tree Lot | T | T | T | T | T | T | |
| Church or Religious Institution | C | C | C | C | C | C | |
| Clothing Sales or Service | | | | X | X | | |
| Commercial Garage | | | | | X | X | |
| Commercial Parking Lot | | | | X | X | X | X |
| Community Center | | C | C | | | | X |
| Condominium Residential Units | | | X | | | | |
| Dairy | C | | | | | | |
| Department Retail Store | | | | X | X | | |
| Duplex Residential Units | | | X | | | | |
| Family Care Facility | C | C | C | | | | |
| Farm | X | | | | | | |
| Feed Store | X | | | X | X | X | |
| Firewood Sales & Storage | | | | | | X | |
| Flea Market/Outdoor Booth Sales | | | | | T | T | |
| Florist | | | | X | X | | |
| Food Processing Plant | | | | | | C | |
| Funeral Services | | | | X | X | | |
| Furniture Sales or Service | | | | X | X | | |

| TYPE OF LAND USE | A-R | R-1 | R-2 | C-1 | C-2 | M-1 | P-1 |
|---|-----|-----|-----|-----|-----|-----|-----|
| Gas Station | C | | | X | X | X | |
| General Building Contractors | C | | | C | C | X | |
| Gift Shop | | | | X | X | | |
| Grocery Store or Deli | | | | X | X | | |
| Gymnasium/Health Club | | | | C | C | | |
| Hardware Store | | | | X | X | X | |
| Hazardous Waste Transport, Recycling Processing or Storage Facility | | | | | C | | |
| Home Occupations | C | C | C | | | | |
| Home Health Care Services | | | | X | X | | |

| | | | | | | | |
|------------------------------|---|--|---|---|---|---|---|
| Hospital, Clinic, Rest Home | C | | | | X | | C |
| Hotel/Motel | | | | X | X | C | |
| Household Appliance Store | | | | X | X | | |
| Junkyard | | | | | | C | |
| Kennel | C | | C | C | C | C | |
| Laundromat | | | | X | X | | |
| Library | | | | X | X | | X |
| Liquor Store | | | | X | X | | |
| Locker Storage and Rental | | | | C | C | X | |
| Lodge/Club/Fraternal Hall | | | | X | X | | |
| Lumber Yard | | | | | | X | |
| Machine Shop | | | | | | X | |
| Manufacturing/Assembly Plant | | | | C | C | C | |

| TYPE OF LAND USE | A-R | R-1 | R-2 | C-1 | C-2 | M-1 | P-1 |
|--|-----|-----|-----|-----|-----|-----|-----|
| Medical/Dental Office or Clinic | | | | X | X | | |
| Mobile Home, Manufactured Housing | C | C | X | | | | |
| Mobile Homes | | | X | | | | |
| Mobile Home Dealers | | | | | X | | |
| Mobile Home Park/Trailer Court | | | | | C | C | |
| Mortuary/Crematory | | | | X | X | | |
| Multiple Family Dwelling | | | X | C | | | |
| Museum | | | | X | X | | X |
| Nurseries and Garden Stores | X | | | X | X | | |
| Pawn Shop | | | | X | X | | |
| Photographic Studio | | | | X | X | | |
| Plumbing or Heating Supply or Service | | | | X | X | | |
| Printing Shop | | | | X | X | | |
| Professional Offices (other than medical and dental) | | | | X | X | | |
| Public Utility Offices | | | | C | X | | X |

| | | | | | | | |
|---------------------------------|---|---|---|---|---|---|--|
| Public Utility Equipment Yards | | | | | | X | |
| RV & Trailer Park | | | C | | | C | |
| Ranch | X | | | | | | |
| Real Estate Sales Office | T | T | T | X | X | X | |
| Research & Development Facility | | | | | | C | |
| Residential, Multi-Family | | | X | C | | | |
| Residential, Single Family | X | X | X | C | | | |

| TYPE OF LAND USE | A-R | R-1 | R-2 | C-1 | C-2 | M-1 | P-1 |
|---|-----|-----|-----|-----|-----|-----|-----|
| Restaurant | | | | X | X | C | |
| Sale of Farm Products (grown on site) | X | | | | | | |
| School (public or private) | C | C | C | C | C | C | X |
| Sheet Metal Fabrication | | | | | | X | |
| Signs (as permissible under Section 39) | X | X | X | X | X | X | X |
| Social Services | | | | X | X | | X |
| Television Repair Shop | | | | X | X | | |
| Travel Agency | | | | X | X | | |
| Travel Trailer/Camping Facility RV Park | | | | | X | C | |
| Truck Service Station or Terminal | | | | | C | C | |
| Truck Storage or Parking Yard | | | | | | C | |
| Vehicle Dealership, new or used | | | | X | X | X | |
| Video Tape Rental and Sales | | | | X | X | | |
| Warehouse Storage Facility | | | | C | C | X | |
| Welding Facility | | | | | | X | |
| Wholesale Trading Establishment | | | | | C | X | |

X = PERMITTED-BY-RIGHT
C = CONDITIONALLY PERMITTED
T-TEMPORARY PERMIT REQUIRED

TABLE 2
Hazardous Materials Stockpile Definition

| Material* | Minimum Quantity** |
|-------------------------------|--------------------|
| Carcinogens | 10 pounds |
| Combustibles | 55 gallons |
| Flammable liquids | 55 gallons |
| Corrosive liquids | 55 gallons |
| Highly toxic liquids & solids | Any Amounts |
| Oxidizing liquids | 55 gallons |
| Oxidizing solids | 500 pounds |
| Other health hazards | |
| Liquids | 55 gallons |
| Solids | 500 pounds |
| Toxic Liquids | 55 gallons |
| Toxic Solids | 55 gallons |

* Additional information regarding this classification of hazardous materials is provided in the current edition of the 10991 Uniform Fire Code

** Quantities (stored or handled in crucial areas) exceeding this amount is subject to permit requirements

**TABLE 3
PROCEDURAL CHART**

D=Decides

R=Recommends

(H)=Public Hearing

A=Appeal

| TYPE OF APPLICATION | Code Enforcement Officer | Commission | Board |
|--|--------------------------|------------|-------|
| Amendment of Zoning Ordinance | | R (H) | A (H) |
| Amendment of the Official Zoning Map | | R (H) | A(H) |
| Appeals | | A(H) | A(H) |
| Beneficial Use Determinations | R | R(H) | A(H) |
| Conditional Use Permit | R | D (H) | A(H) |
| Home Occupation Permits | R | A(H) | A(H) |
| Interpretation of the Zoning Ordinance | D | A | A(H) |
| Mobile Home Installation Permits | D | A(H) | A(H) |
| Signs Permits | D | A(H) | |
| Site Plan Review Certification | D | A (H) | A(H) |
| Variance | R | A (H) | A(H) |