

**VILLAGE OF LOS RANCHOS DE ALBUQUERQUE  
ORDINANCE NO. 258**

AN ORDINANCE CHAPTER 9 LAND USE REGULATIONS, ARTICLE 2, ZONING AND  
ZONE MAP, SECTION 25, APPLICATION AND APPROVAL PROCESS

NOW, THEREFORE, be it ordained by the governing body of the Village of Los Ranchos de Albuquerque (the "Village"), that Chapter 9 Land Use Regulations, Article 2, Zoning and Zone Map, Section 25, Application and Approval Process, is amended as follows:

**Section 9.2.25 (H)** is hereby deleted in its entirety and the following substituted therefore:

(H) APPEALS.

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

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

(3) Appeal Procedure.

(a) The Notice of Appeal of Director Decision or Commission Decision must be filed with the Village Clerk with the appropriate filing fee, not more than fifteen (15) calendar days after issuance of a Final Notice of Decision. A Notice of Appeal may be signed by the aggrieved party or an agent of an aggrieved party. If a Notice of Appeal is filed by an agent, a letter or other written document signed by the aggrieved party authorizing the agent to act on their/its behalf must be delivered to the Village Clerk on or before filing of the Notice of Appeal. Regardless of the method of delivery, the Notice of Appeal shall be effective on the date actually received by the Village Clerk. Email is not an acceptable delivery method.

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

(c) A Notice of Appeal from a decision of the Planning and Zoning Commission must specifically state the basis of the appeal, including citation to any law, the Village Master Plan, applicable sections of

ordinances and specific references to evidence or documents which were considered by the Planning and Zoning Commission. Without a specific authorization by the Board of Trustees, no factual information not available for consideration by the Planning and Zoning Commission will be considered by the Board of Trustees, nor will any person or entity not participating in the hearing before the Planning and Zoning Commission be permitted to participate or present testimony before the Board of Trustees.

- (d) All appeals to the Planning and Zoning Commission and the Board of Trustees shall be deemed quasi-judicial proceedings, which means certain judicial processes and protections are required. All witnesses will be placed under oath and all witnesses shall be subject to cross-examination. All documentation is subject to authentication, verification and cross examination. Appellants and other parties are cautioned not to contact members of the Planning and Zoning Commission nor the Board of Trustees about matters pending on any appeal outside of the scheduled public hearings as those individuals are acting “judges” in the appeal. All communications with the Village should be directed through the Village Clerk or the Director or with specific instruction from the Director to Village legal counsel.
- (e) Appeal from a Director Decision or from a Commission Decision shall be scheduled for public hearing on a date which is not earlier than forty-five (45) days after the expiration of the applicable appeal period. On an emergency basis or for convenience of the parties, the Director may, but is not required to, seek a hearing on an appeal at an earlier date. Subject to the rules relating to allowable time and other procedures, interested parties may present testimony and other evidence at such hearing.
- (f) If any party desires to submit additional documentation in an appeal from a Director Decision, such documentation must be submitted to the Director not less than thirty (30) calendar days prior to the scheduled hearing date before the Planning and Zoning Commission. Additional documentation will not be accepted for an appeal of a Commission Decision to the Board of Trustees except as set out in subparagraph (c) above. If the additional documentation submitted to the Planning and Zoning Commission prior to an appeal hearing is not given under oath and not subject to cross-examination, the Planning and Zoning Commission may consider or not consider the document(s) as it deems appropriate and if it determines that such document(s) should be considered, will give the document(s) such weight as it reasonably determines in its discretion. Additional documentation submitted at the time of the hearing will not be accepted and will not be included in the record of the appeal, excepting documents related to a withdrawal of the appeal or request for a deferral of the appellate hearing. A person/entity submitting additional documentation must provide the number of copies as

- determined appropriate by the Director.
- (g) For appeals heard by the Planning and Zoning Commission, the Planning and Zoning Commission may make a final determination as to all or a part of the appeal, may defer a decision on the appeal, or may remand the matter back to the Director for further information or determinations.
  - (h) In addition to the foregoing, all appeals shall be required to follow the Village of Los Ranchos Rules for Appeals.
    - (i) For hearings before the Planning and Zoning Commission and the Board of Trustees, public notice is required in accordance with §9.2.25(F) of the Codified Ordinances. The appellant(s) is responsible for all publication fees required for the appeal. If there is more than one appellant, the Director will prorate the fees equally between all appellants.
  - (j) Decisions by the Board of Trustees are subject to appeal to the District Court of the Second Judicial District pursuant to procedures prescribed by New Mexico State Statutes.

**SEVERABILITY.** If any section, subsection, paragraph, sentence, clause, phrase, or part hereof is for any reason declared unconstitutional or invalid, the validity of the remaining portions hereof shall not be affected since it is the expressed intent of the Board of Trustees to pass each section, subsection, paragraph, clause, phrase and every part thereof separately and independently of every other part.


**EFFECTIVE DATE, REPEAL, AND PUBLICATION.** This Ordinance shall take effect and be in full force five (5) days after publication of this Ordinance.

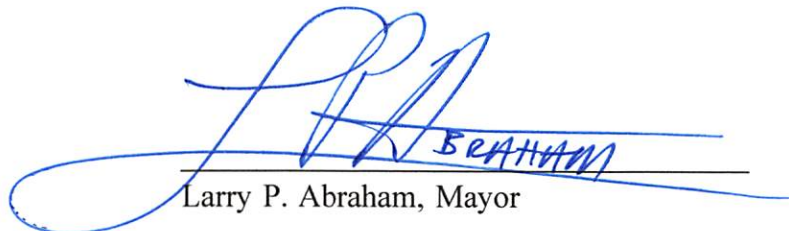
**COMPILING CLAUSE.** This Ordinance shall be incorporated and compiled as part of the codified ordinances of the Village of Los Ranchos de Albuquerque.

**APPROVED AND ADOPTED** by the Governing Body of the Village of Los Ranchos de Albuquerque this 9<sup>th</sup> day of August, 2017.



ATTEST:

  
Stephanie Dominguez, Village Clerk

  
Larry P. Abraham, Mayor