Working Group Position Paper

Sidewalk Rationale

Member Perspective A
Sidewalks are maintained for the benefit of pedestrians, e.g. adults or children walking or jogging, children riding tricycles or scooters, people pushing baby carriages. They have the expectation that they can use the entire sidewalk with minimal risk of injury or inconvenience. Bushes with thorns (e.g. rose bushes or Russian olive), shrubs with sharp branches or twigs and fences or decorations that they can reasonably come in contact with are a potential source of injury. To ensure that these conditions are met, the county requires that all plants and other objects are maintained well outside the sidewalk edge. Since pollen from some noxious weeds such as rag weed pose a health issue for people with asthma, property owners are required to control the growth of these weeds. This may be necessary even before the plants reach a height of 18".

In the current version of Section 18, there is no ordinance that addresses the drop-off at the edge of sidewalks. This should be corrected in the re-write to provide specific limits, e.g. 3".

We feel that the following provisions in the existing code support these conclusions:

Sec. 18-33. - Responsibility.

(b) It is a violation of this chapter if the owner, agent, tenant, occupant, or person in charge of any property or premises fails to keep the public way or right-of-way, setbacks or sidewalks abutting or adjoining their property or premises clear and free of any public nuisance including weeds, as defined in section 18-42, trees, shrubs, limbs, other obstructions that prohibits or interferes with the safe use and travel of pedestrians over, through or on the public way or right-of-way, setbacks or sidewalk.

Sec. 18-42. - Weeds, brush piles, refuse and rubbish.

(d) No owner or occupant of any property shall allow any hedge, shrub, tree or other vegetation, or any part thereof, to overhang, extend or protrude into any street, sidewalk, or public right-of-way in a manner which obstructs or impedes the safe and orderly movement of persons or vehicles thereon.

Member Perspective B
18-33 already covers everything we could possibly encourage from homeowners. We could remove the language surrounding "nuisances" in general and throughout the code, simply because it is one of those words that's moved so far away from its origins (harm or injury) and into something that means simply "annoyance" in modern language that it is inappropriate for a code that is striving to be less subjective.

Regarding airborne particles or allergens: If we start limiting what people can grow and maintain in their yards based on allergies, asthma and other health issues of that nature, we will be opening the door to elimination of all plant-based landscaping. It's simply too broad a scope.

As for brushing up against plants or thorny bushes, there is plenty of language encouraging homeowners to keep public right of ways clear. The problem seems to be most prevalent in older neighborhoods where sidewalks are not up to ADA compliance and this is an issue that should be addressed by the county before we create additional burdens on tenants and homeowners.

Outdoor Storage Rationale

Member Perspective A
A storage nuisance includes collections of items that appear to be damaged, unusable or inappropriate for outdoor storage, especially if they are in a disordered pile that is visible from the street or sidewalk. The county recognizes that some high-density residential properties have less storage space than single family

dwellings, necessitating the use of carports for storage in some instances. The existing code doesn't provide any exceptions for this however.

Member Perspective B
"Items that appear to be damaged, unusable or inappropriate" is all subjective. We cannot put each citizen through a burden of proof test every time someone considers their collection of materials an eyesore or annoyance. They may have a project in mind for those items, but even if they don't they should not have to prove such intent to store materials for future use unless said materials are indeed found to be immediately hazardous to the health of the surrounding environment (inappropriately stored chemicals, for example). This goes for carports as well. Although it may not be attractive to see stored materials in an open carport, if those materials are not a health or safety hazard as laid out in the fire, environmental safety, or building codes for our county or state, we should not wish to create additional burdens on those who have no other storage options on their property. This would be, in my opinion, a violation of the "bundle of rights" regarding property ownership that local governments should be careful not to violate. (The rights to possess, control, exclude access to and dispose of property).

Regarding inoperable vehicles, the numbers feel arbitrary. Vehicles on someone's property may actually be a future resource for the person who owns it.

Storage of RV's and Construction Equipment Rationale

Member Perspective A
The county recognizes that the availability of land for storage of private vehicles and equipment is very limited. However, action by the county to alleviate this problem is complicated by the New Mexico Anti-Donation Statute.

Member Perspective B
We have established there is a need for RV storage. Beyond that, this seems to be something that should be addressed by county staff as far as placement, pricing, etc. I do not endorse a plan to require anyone who owns an RV to remove it from their personal property and store it in a county or privately owned storage facility. RVs that block sight lines or create other traffic safety issues should be addressed, but I do not know the right answer for how to move those if space is an issue at the owner's property.