

XOME RA "97"

LAND
SUBDIVISION REGULATIONS
ORDINANCE

RIO ARRIBA COUNTY

NEW MEXICO

**LAND
SUBDIVISION
REGULATIONS**

**BOARD OF COUNTY COMMISSIONERS
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PETE GARCIA - COUNTY MANAGER

**ORIGINALLY ADOPTED OCTOBER 17, 1973
REVISED OCTOBER 8, 1982
REVISED MAY 13, 1986**

**AMENDED DECEMBER 11, 1986
AMENDED FEBRUARY 17, 1987**

RIO ARRIBA COUNTY

NEW MEXICO

**LAND
DEVELOPMENT
REGULATIONS**

BOARD OF COUNTY COMMISSIONERS

**ALFREDO MONTOYA - CHAIRMAN
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LORENZO VALDEZ - COUNTY MANAGER

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AMENDED JUNE 26, 1997**

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RIO ARRIBA COUNTY, NEW MEXICO

LAND DEVELOPMENT REGULATIONS

ARTICLE 1

TITLE AND AUTHORITY

These regulations shall be known, referred to, and cited as "Rio Arriba County, New Mexico, Land Development Regulations." These regulations are passed, adopted and approved by the Board of County Commissioners of Rio Arriba County, as authorized by the New Mexico Subdivision Act, Chapter 348 of Laws of 1973, 31st Legislature, First Session, The Legislature of the State of New Mexico, as amended.

The Rio Arriba County Subdivision Regulations are created pursuant to the enabling authority set forth in 47-6-1 et. seq. NMSA 1978; 4-37-1 et. seq. NMSA 1978; and 3-20-5, 3-20-6, and 3-20-9 NMSA 1978; and any and all criteria, requirements, regulations, references, and/or standards are incorporated herein.

ARTICLE II

PURPOSE

Rio Arriba County lies in the upper Rio Grande Valley, which is one of the oldest inhabited areas in the United States. The history of the area focuses on utilization of water from the Rio Grande and its tributaries by two cultures. Nearly a thousand years ago, Pueblo Indian people were irrigating their fields through wells, canals, and ditch. Spanish settlements in the County date from the year 1598. The Spanish acequias, or ditch systems, formed the basis for social organization and community life. A distinctive way of life, based on a fusion of Spanish and Indian traditions, has been maintained in communities throughout the County based on agriculture. It is the purpose of these regulations to protect the unique culture which has developed within Rio Arriba County by ensuring that all subdivisions are created in harmony with this culture, and contribute positively to it rather than detract from it.

The County finds that the maintenance of an adequate supply of water for both present and future agricultural uses within the County is essential to the maintenance of the quality of life and culture in the communities of the County, and that these regulations should be interpreted to accomplish that purpose. The County also finds that the transfer of water rights from traditional uses, such as irrigation by the acequias, to residential subdivision or commercial uses, will generally not promote the public welfare because of its adverse effects on the communities of the

County. The County also finds that community water and liquid waste treatment systems should be encouraged in subdivisions to prevent future impairment and pollution of water supply sources. When water rights are severed from the land, there is no irrigation. Without irrigation, the land will be lost. Without the land base, the family will disintegrate, and without the families, the communities, too, will die. Once lost, the culture could never be regained.

The County strongly encourages programs to study new agricultural uses and technologies to preserve the traditional quality of its communities, which may include the development of new varieties of crops and livestock suited to present and future economic reality.

The County recognizes that much of its agriculture will not be the sole support of those engaged in it, providing only some additional income to its citizens: but that at this time, agriculture is the backbone of its cultural traditions.

The County also intends to protect its unique and fragile environment, and its magnificent scenic vistas from irreversible destruction through uncontrolled development. It is particularly concerned about the effects of development on the water table and on water still used for irrigation. It is also concerned about contamination of ground water from liquid and solid waste disposal, and about flooding and soil erosion. It wants to preserve threatened wildlife, and to protect lives and property from the devastation of forest fires, these regulations address these concerns.

The County also recognizes its obligation to provide opportunities for housing for its residents. It is not the purpose of these regulations to prevent the development of affordable housing in appropriate areas.

Finally, it is the purpose of these regulations to promote, in accordance with present and future needs, the health, safety, order, convenience, prosperity, and general welfare of the citizens of Rio Arriba County, New Mexico: and to provide for efficiency and economy in the process of development for convenience of traffic and circulation of goods and for good civic design and arrangement by prescribing rules and regulations for the subdivision of land and for the administration and enforcement of these regulations. These regulations solely govern the subdivision of land within Rio Arriba County. The statements covering water and water use in this Article II are intended, in part, to be the Rio Arriba County Commission's View of what constitutes the "public welfare" in Rio Arriba County as that term is utilized in Section 72-12-7A NMSA 1978.

These regulations do not apply to land, which is transferred by gift, will, or inheritance to family members or others.

ARTICLE III

DEFINITIONS

Section 1 - DEFINITIONS as used in the Rio Arriba County Land Subdivision Regulations.

Absorption Field means an area in which open joint or perforated piping is laid in gravel-packed trenches or excavations for the purpose of distributing the effluent discharged from a tank used as a part of an individual liquid waste disposal system for absorption into the soil.

Acequia As used in these regulations, acequias are physical structures, political subdivisions of the State and have community characteristics. As physical structures, acequias are described as trenches or ditches excavated on the surface of the earth. In legal terms, acequias are political subdivisions of the State of New Mexico, established pursuant to Sections 73-2-1 to 73-2-64 NMSA 1978. Acequias are owned by more than two owners as tenants in common, who are required to have cooperative construction and maintenance responsibilities. This has given them the characteristics of a close community beyond their political status. As legal and political bodies, communities, and as physical structures, their principal function is to allow distribution and allocation of water primarily for agricultural purposes.

Aerobic Disposal System means a tank where air is introduced to the liquid waste by mechanical means, together with an absorption field.

Affordable Housing means a dwelling unit used as a primary residence for which persons and families earning no greater than 170% of the Rio Arriba County median income can obtain a mortgage loan to purchase, The price chart for affordable housing will be a reflection of what families earning between 80% and 170% of the median family income can afford at various interest rates. The definition assumes:

1. A 20% downpayment by the purchaser; and
2. The assumption of 35% of gross family income is available for housing costs (principle and interest only), not including taxes, insurance, and homeowner fees. The loan rate used shall be the prevailing interest rate as published by the Federal home Loan Bank at the time that a subdivision application is filed.

Agriculture means all methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry, and handling their by-products.

Block means the distance measured along a street between intersection streets from centerline to centerline; and where the context requires, it also means the enclosed area within the perimeter of the streets or property lines enclosing it.

Body of Water means all water situated wholly or partly within or bordering upon this State, whether surface or subsurface, public or private.

Buffer Strip means the land:

1. Adjoining a watercourse or drainage channel with a vertical bank of at least 45 degrees, and
2. Extending perpendicularly from the vertical bank of the watercourse or drainage channel to a distance three times the depth of the watercourse or drainage channel measured from the bottom of the watercourse or drainage channel to the top of the highest bank.

Building Line means a line on a plat between which line and a street no building or structure may be erected.

Class I Water Supply System means a water supply system serving eleven or more parcels.

Class II Water Supply System means a water supply system serving ten or less parcels.

Commission means the Rio Arriba County Board of County Commissioners, or the administrative officers delegated to act for it when summary procedures are required.

Common Promotional Plan means any plan or scheme of operation, undertaken by a single subdivider or a group of subdividers acting in concert, to offer for sale or lease parcels of land where such land is either contiguous, or part of the same area of land, or is known, designated, or advertised as common unit or by a common name.

Community Liquid Waste Treatment System means a system, which is engineered, constructed, operated and maintained for collection of liquid waste disposal serving two (2) or more parcels.

Community Water Supply System means a central water supply system, which serves all lots within a subdivision through facilities, which are under central ownership and management. It includes municipal water systems, public utilities, and water systems created pursuant to state law. It has at least fifteen (15) service connections or services at least twenty-five (25) residents. It is subject to the New Mexico State Environmental Improvement Regulations governing water supplies. A water supply

system with eight (8) or more residential sewer connections usually will be a community water supply system, since it will usually serve twenty-five (25) residents.

County Clerk means the County Clerk of Rio Arriba County, State of New Mexico.

County Manager means the County Manager of Rio Arriba County, state of New Mexico.

Disclosure Statement means a submittal detailing in writing certain specified information required by the New Mexico Subdivision Act and/or by these Regulations prior to selling or leasing any land to permit a prospective purchaser or lessee to make an informed decision about the purchase or lease of said land.

Drainage Channel means any depression into which storm water flows along a defined course.

Easement means a right or privilege that a person or persons may have in another's land, such as the right of passage.

Erosion means soil movement due to wind or water.

Erosion Control Structure means any man-made device preventing or controlling erosion.

Exaction means a requirement that subdivider either dedicate land for public use or contribute cash in lieu of land for the purchase of land or facilities perceived to be necessary by local government as a consequence of the development of the subdivision.

Floodway means any area, which will be flooded by high water from a 25-year frequency storm.

Flood Fringe means any area, which will be flooded by high water from a 50-year frequency storm.

Flood Plain means any area, which will be flooded by high water from a 100-year frequency storm.

Geohydrologic Report means a report on subsurface water availability.

Hydrologic Report means a report on surface water availability.

Immediate Family Member means a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step-grandson, granddaughter, step-granddaughter, nephew, and niece whether related by natural birth or adoption.

Impact Fees means charges levied against new development in order to generate revenue for funding capital improvements necessitated by that development.

Individual Liquid Waste Disposal System means a disposal system, which services an individual dwelling or parcel and includes, but is not limited to, septic tank systems, aerobic disposal systems, and evapo-transpiration systems.

Lease means to lease, or offer to lease land.

Liquid Waste means domestic wastewater containing human excreta or other water-carried waste.

Lot means parcel.

Manufactured Home or Mobile Home means a movable or portable housing structure over 32 feet in length or over 8 feet in width constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and which may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or may be two or more units separately towable but designed to be joined into one integral unit, as well as a single unit: (1) which is not designed, constructed, or inspected in accordance with the requirements and specifications of the New Mexico Uniform Building Code; and (2) whose structural, electrical, water supply, sanitary sewage, heating, insulation, and mechanical parts and components are not designed, constructed and inspected in accordance with the requirements and specifications of the New Mexico Uniform Building Code; and (3) which is designed, constructed, and inspected in accordance with the requirements and specifications of the New Mexico Manufactured Housing Act, and regulations enacted thereto, Section 60-14-1 et seq NMSA 1978, or the Federal Mobile Home Construction and Safety Standards. "Manufactured Home" or Mobile Home" does not include recreational vehicles or modular or pre-manufactured homes, built to uniform building code standards, designed to be permanently affixed to real property.

mg/l means milligrams per liter.

Mobile Home Park, Trailer Park, or Park means a parcel of land used for the continuous accommodation of two (2) or more occupied manufactured or mobile homes upon which are located suitable sewers, utilities, and other supporting elements, and which is devoted to the sole purpose of accommodating, regardless of whether or not a charge is made for such accommodation, manufactured or mobile homes for non-transient use. "Mobile Home Park" does not include manufactured or mobile home subdivisions, or land which may be zoned at a future time for manufactured or mobile home subdivisions.

Modified Landfill A landfill operated under the modified landfill requirements of the New Mexico Environmental Improvement Division.

Modular Home means a building or structure made or assembled in manufacturing facilities away from the building site or for installation or assembly on a building site: (1) which is transportable: and (2) which is designed or used as a dwelling, office, or place of business: and (3) which is designed, constructed, and inspected in accordance with the requirements and specifications of the New Mexico Uniform Building Code: and (4) whose structural, electrical, water supply, sanitary sewage, heating, insulation, and mechanical components are designed, constructed, and inspected in accordance with requirements of the New Mexico Uniform Building Code: and (5) which is permanently affixed to a foundation, designed, constructed, and inspected in accordance with the requirements of the New Mexico Uniform Building Code.

MUA (Mixed Use Area) means development of residential and non-residential uses or any combination thereof, which is not incompatible with the uses of surrounding neighborhood and does not significantly alter the value of the said neighborhood.

Owner means any person or his successor in interest who purchases or leases land within a subdivision from a subdivider.

Parcel means a unit of land capable of being described by location and boundaries and not dedicated for public or common use.

Person means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity.

Plat means a map, chart, survey, plan, or replat certified by a licensed registered land surveyor containing a description of the subdivided land with ties to permanent monuments.

Plat, Preliminary means a map and other submittals as required by these regulations of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

Plat, Final means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications, and acceptances; and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas, and other dimensions.

Privy means any non-water-carried disposal facility for human excreta.

PUD (Planned Unit Development) means an area of land to be developed as a single entity according to a plan, containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial or industrial areas in order to maintain residential self sufficiency.

Reviewing Staff means one or more full- or part-time employees of the County, or any other person employed by contract to review subdivision applications and/or perform subdivision enforcement functions. This reviewing staff may include, but is not limited to, a licensed professional engineer, a professional planner, a geohydrologist, and/or a geologist.

Sanitary Landfill a landfill operated under the sanitary landfill requirements of the New Mexico Environmental Improvement Division.

Sediment means soil or other surface material transported by wind or surface water.

Sell means to sell, or offer to sell land.

Septic Tank System means a tank, which is designed and constructed to separate solids from the liquid and digest organic matter through a period of detention; together with an absorption field.

Soil Survey means a national cooperative soil survey conducted by the United States Department of Agriculture Soil conservation Service in cooperation with State Agriculture Experiment Station and other federal and state agencies, or any other survey containing information of comparable quality approved by the local Soil and Water Conservation District. The Soil Conservation Service soil survey has not been published as yet. The manuscript material is available from the Soil and Water Conservation Districts. The interpretations contained in the manuscript document are primarily for agricultural purposes and the depth of the survey is only 5 feet. Any uses other than agricultural require "site-specific" soil surveys to obtain an accurate analysis. A site-specific soil survey shall be performed at the subdivider's expense by a licensed soils engineer, a licensed civil engineer a licensed architect, or a licensed geologist. It must identify specific soil types within the area to be subdivided. Either the S.C.S. soil survey or an approved comparable survey may be utilized as the foundation for the site-specific soil survey. It shall be done to a depth of at least 5 feet. Where an individual liquid waste disposal system is proposed, then the survey shall be done to a depth of at least 10 feet. It shall include an overlay of the various soil types, drawn to the scale of the subdivision, showing the location of each different soil type. The survey shall indicate soil test results for soil depth to bedrock, percolation rate of each soil, shrink-swell characteristics of each soil, soil depth to seasonal high water ground table, and slope of the land. The site-specific soil survey shall include engineering interpretations of each soil, including its limitations for its intended use. Limitations include, but are not limited to, surface and subsurface drainage problems, seasonally high water tables, flood hazard, and identity of soils subject to excessive erosion. Examples of intended uses include, but are not limited to, septic tank absorption fields, community water and liquid waste disposal systems, building site developments, and construction materials (roadfill, etc.). State and federal reviewing agencies, and/or County reviewing staff, and/or

the County Manager may require additional information in a site-specific soil survey based on knowledge of existing, suspected, or potential problems.

Solid Waste means any solid or semi-solid discarded material, which results from household, commercial, industrial, or other operations, but does not include waterborne waste in a sewerage system.

Street means all property dedicated to or intended for public use for access to abutting lands or subject to public easements, therefore, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane place, circle, or however otherwise designated.

Street, Arterial means a street of considerable length that carries or that planning evidence indicated will carry a large volume of traffic; or which provides a continuous route through a major portion of the County or any urbanized area within the County.

Street, Collector means a street that serves as a connection between several local streets and one or more arterial streets.

Street, Cul-de-sac means a local street with only one outlet and culminated by a turnaround.

Street, Local means a street of relatively short length that provides direct access to a limited number of abutting properties.

Street, Marginal Access means a local or minor (service) street which parallels and is immediately adjacent to a major street or highway, and which provides access to abutting properties and protection from through traffic and control of intersections with major traffic streets.

Street, Roadway means that portion of the street available for vehicular traffic and, where curbs are laid, that portion from back-to back of curbs.

State Engineer means the duly authorized State Engineer of New Mexico whose office has jurisdiction over surface and subsurface water rights and availability.

State Highway Department means that duly authorized agency of the State of New Mexico whose agency has jurisdiction over the construction and maintenance of all State and Federal highways.

Subdivide means to divide the surface area of land into a subdivision.

Subdivider means any person creating or who has created a subdivision, individually or as part of a common promotional plan or any person engaged in the sale or lease of

subdivided land which is being sold or leased or has been sold or leased within the preceding three years by the owner in the ordinary course of business: however "Subdivider" does not include any duly licensed real estate broker or salesperson not acting on his own account.

Subdivision means the division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease or other conveyance or for building development, whether immediate or future; but "subdivision" does not include:

- A. The sale, lease or other conveyance of any parcel that is thirty-five acres or larger in size within any twelve-month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with Section 7-36-20 NMSA 1978, for the preceding three years;
- B. The sale or lease of apartments, offices, stores or similar space within a building;
- C. The division of land within the boundaries of a municipality;
- D. The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;
- E. The division of land created by court order where the order creates no more than one parcel per party;
- F. The division of land for grazing or farming activities provided the land continues to be used for grazing or farming activities;
- G. The division of land resulting in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased;
- H. The division of land to create burial plots in a cemetery;
- I. The division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member;
- J. The division of land created to provide security for mortgages, liens or deeds of trust; provided that the division of land is not the result of a seller-financed transaction;
- K. The sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty acres;

- L. The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in Section 501 (c) (3) of the United States Internal Revenue Code of 1986, as amended; school, college or other institution with a defined curriculum and a student body and faculty that conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship, religious teaching or other specifically religious activity; or
- M. The sale, lease or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five-year period; provided that a second or subsequent sale, lease or other conveyance from the same tract of land within five years of the first sale, lease or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act; provided further that a survey shall be filed with the county clerk indicating the five-year holding period for both the original tract and the newly created tract.

Subdivision Improvement Agreement means a contract entered into between the subdivider and the County which sets forth the obligation of the parties including, but not limited to, improvements to be completed, time of completion of improvements, and posting of security for completion of improvements.

Tank means watertight receptacle which receives liquid waste from the sanitary drainage system of a building and in which bacterial assimilation of organic matter takes place.

Terrain Management Plan means the subdivision proposal for the control of floods, drainage and erosion, and measures required for adapting proposed development to existing soil characteristics and topography.

Time Purchase of Lease means the time of signing any document obligating the person signing the document to purchase land or lease land as a lessee.

Traditional Community means, in the context of Rio Arriba County, an area populated substantially by residents whose families have inhabited the area for several generations and who commonly are either members of or identify with an acequia.

Type I Subdivision means any subdivision containing five hundred or more parcels, any one of which is less than ten acres in size.

Type II Subdivision means any subdivision containing not fewer than twenty-five but nor more than four-hundred ninety-nine parcels, any one of which is less than ten acres in size.

Type III Subdivision means any subdivision containing not more than twenty-four (24) parcels, any one of which is less than ten acres in size.

Type IV Subdivision means any subdivision containing twenty-five (25) or more parcels, each of which is ten acres or more in size.

Type V Subdivision means any subdivision containing not more than twenty-four parcels, each of which is ten acres or more in size.

Summary Review Subdivisions means Type III Subdivisions containing five (5) or fewer parcels of land, unless the land within a subdivision has been previously identified as an area subject to unique circumstances or conditions that require additional review, and all Type V Subdivisions.

Variance means variation from the strict application of these regulations. Financial gain or loss shall not be the determining factor in deciding a variance.

Water Control Structure means any man-made device for containing or channeling water.

Water Course means any river, creek, spring, stream, or any other like body having definite banks and evidencing the occasional flow of water.

Water Supply System means a system which is engineered, constructed, operated, and maintained to provide water for human consumption. It generally includes a water supply source, treatment, transmission, storage, pumping and distribution facilities.

Wildlife Habitat means a place where plants, animals, or fish normally grow. For the purpose of these regulations, attention will be given to plants, animals, and fish with which the Resource Management and Development Division, and Game and Fish Division of the New Mexico Natural Resources Department are concerned, either because they are endangered species or for some other reason.

ARTICLE IV

JURISDICTION

These "Land Development Regulations" shall govern all platting or replatting of areas within Rio Arriba County not within the boundaries of a municipality, except that, when land proposed for subdivision lies within the extraterritorial platting and planning jurisdiction of an incorporated municipality, and there is concurrent jurisdiction under the subdivision regulations of both the incorporated municipality and the County, the more stringent land subdivision regulations will apply as to each requirement.

ARTICLE V

GENERAL POLICY REQUIREMENTS

Section 1 - Acceptance of Public Lands - Approval of a subdivision by the County Commission constitutes dedication of streets, alleys, and other public ways or easements, and parks or other public lands designated on the plat for public use. It does not constitute acceptance of said dedicated property for maintenance by the County. Acceptance for maintenance by the County requires an application by the subdivider or property owner for such maintenance to the County Commission, and specific action by the County Commission for such acceptance for maintenance.

Section 2 - Community Assets - All features such as natural vegetation, erodible soils, drainage courses, historical sites and structures, land and water devoted to agriculture, wildlife habitats, and similar community assets shall be preserved if, in the opinion of the Board of County Commissioners, they will add attractiveness and value to the area or to the County or avoid unwarranted deterioration and destruction of these natural, historic, or other community assets.

Section 3 - Suitability of the Land for Subdivision - The Board of County Commissioners shall not approve the subdivision of land if, from adequate investigations conducted by all public agencies concerned, and application of these Regulations, it has been determined that in the best interest of the public health, safety, or welfare the land is not suitable for platting and development purposes of the kind proposed, and there is some other viable economic use of the property.

Criteria for determining land unsuitable for subdivision shall include land under irrigation which is committed to agricultural use where the effect of subdivision will be to remove the land within the subdivision from irrigated agricultural use, land subject to periodic flooding, land unsuited for development because of topography, soils subject to excessive erosion, land subject to seasonally high water tables, soils which, due to shallow depths or slow percolation rate, are unsuitable for sewage absorption fields, the absence of aquifers or ground water supplies adequate to support the proposed population, and other criteria specifically mentioned in these Regulations and in guidelines for subdivision regulations prepared by the New Mexico Environmental Improvement Division, New Mexico State Engineer's Office, United States Department of Agriculture Soil Conservation Service, the Forestry Division of New Mexico Department of Natural Resources, the State Highway Department, and other concerned state and federal agencies.

Section 4 - Development Plan - If the proposed plat is the first part of a larger scale development, or a mixed-use development, or if the proposed development is in a flood plain, or if the reviewing staff, in its discretion, believes submission of a Development Plan to be advisable, then the proposed plat shall not be considered by

the County Commission until a Development Plan has been submitted for approval by the County Commission. The Development Plan shall contain the data specified in Article VIII.

Section 5 - Phased Development - For all five (5) types of subdivisions, the County Commission may grant approval of phased development within a subdivision contingent upon the subdivider submitting for approval a definite schedule of completion for all subdivision construction improvements for each development phase. The County Commission may set criteria for development of the initial phase as a condition for approval of subsequent phases. Improvements may not be completed for subsequent phases until the developer obtains final approval for development of that phase.

Section 6 - Conflicts with Other Regulations - Whenever there is a discrepancy or conflict between minimum standards or dimensions noted herein and those contained in zoning regulations, building code, or other official rules and regulations of the County and/or the State of New Mexico, applicable for land within the County, the highest or most restrictive standard shall apply.

Section 7 - Agency Review -

- A. **Plat transmittals.** Within ten (10) days after the date that the preliminary plat is deemed complete, The County shall forward a copy of the preliminary plat and supporting documentation to the following state and local agencies by certified mail "return receipt requested" with a request for review and opinions:
1. New Mexico State Engineer Office;
 2. New Mexico Environment Department;
 3. New Mexico Highway and Transportation Department;
 4. Soil and Water Conservation District in which the proposed subdivision is located; and
 5. Any other public agencies the County considers necessary to determine whether there are adequate facilities to accommodate the proposed subdivision.
- B. **Agency response.** The state and local agencies shall have thirty (30) days from their receipt of the preliminary plat to review and return an opinion regarding the preliminary plat. The County shall obtain receipts or other proof showing the date the opinion request was received by each state or local agency. Any adverse agency response should detail all deficiencies.

- C. Hearing deadlines. If the opinions received from all agencies are favorable, the County shall schedule a public hearing for consideration and action on the preliminary plat within thirty (30) days following the receipt of such favorable opinion. If the County does not receive a requested opinion within the specified thirty (30) days, it shall proceed with the required public hearing.
- D. Adverse opinion. If any opinion from a public agency is adverse, the County shall forward a copy of the adverse opinion to the subdivider and request that additional information be provided to the County within thirty (30) days to respond to the concerns of the appropriate agency. The County shall forward such additional information upon receipt to the appropriate agency, which shall have thirty (30) days after the date the subdivider submits the additional information in order to revise its opinion. The County shall obtain receipts or other proof showing the date the additional information was received by each state or local agency.
- E. Revised opinion. The County shall schedule a public hearing for consideration and action within thirty (30) days after the receipt of a revised opinion from the appropriate agency. If the County does not receive a revised opinion within the specified thirty (30) days after the date the subdivider submits the additional information, it shall proceed with the required public hearing.

Succeeding Subdivisions - Any proposed subdivision may be combined and upgraded for classification purposes by the Board of County Commissioners with a previous subdivision if the proposed subdivision includes:

- A. A part of a previous subdivision that has been created in the preceding seven-year period; or
- B. Any land retained by a subdivider after creating a previous subdivision when the previous subdivision was created in the preceding seven-year period.

ARTICLE VI

PROCEDURES

Section 1 - Pre-Application Procedures

- A. Prior to the filing of an application for approval of a preliminary plat, the subdivider shall confer with the reviewing staff and/or County Manager to become acquainted with these Land Subdivision Regulations. At this pre-application conference, the subdivider shall be advised of the following:
 - 1. Submittals required by these Regulations in the filing of an application for approval of a preliminary plat.

2. A determination will be made as to the type and/or class of the proposed subdivision.
 3. Individuals and/or agencies that shall review the required submittal.
 4. The required improvements.
 5. Whether a Development Plan is required as described in Article VIII.
- B. The subdivider may bring a sketch plan to the pre-application conference, as well as a draft of a disclosure statement, as required by the New Mexico Subdivision Act and these Regulations. After conferring with the subdivider and reviewing the Sketch Plan and draft Disclosure Statement, The reviewing staff and/or the County Manager shall determine the type of subdivision proposed, as defined in the New Mexico Subdivision Act, and shall further inform the subdivider concerning the feasibility of the proposed subdivision pursuant to the New Mexico Subdivision Act and these Regulations.

The subdivider may then elect to proceed with the complete preliminary plat application or may revise his subdivision plans and schedule a second pre-application conference.

Section 2 - Preliminary Plat Procedure

- A. Copies of the preliminary plat and supplemental material required and a written application for approval of the preliminary plat shall be submitted to the reviewing staff and/or County Manager. Payment to Rio Arriba County, in the amount required in the schedule of fees for preliminary plat review, must accompany the application for approval.
- B. For Type I, II, III (except certain Type III Subdivisions subject to review under Summary Review Procedure), and IV Subdivisions, the following will apply:
 1. When all required submittals have been received by the reviewing staff and/or County Manager, he will, within ten (10) working days, review the application and advise the applicant of incompleteness or transmit the application to the appropriate agencies for their review and comments as to compliance with the New Mexico Subdivision Act and these Regulations. Reviewing staff and/or the County Manager may submit the applications to other state and federal agencies in addition to the State Engineer, Environmental Improvement Division, Soil and Water Conservation Improvement Division, Soil and Water Conservation Districts, and State Highway Department. Such agencies may include, but are not

limited to, the New Mexico Forestry Division, the Game and Fish Division and Resource Development Division of the New Mexico National Resources Department, The United States Soil Conservation Service, the United States Forest Service, and servicing fire departments. (NMSA 47-6-11 (A))

2. The State, local and other appropriate agencies shall have thirty (30) working days from the receipt of the Preliminary Plat to review and return an opinion regarding the said plat. After all opinions requested are received from the respective agencies, the reviewing staff shall notify the subdivider of these opinions including its own reviewing staff's opinions. The subdivider may choose to defer review of his application by the County until he amends it in his response to opinions of State and other agencies or reviewing staff, pursuant to the procedure in the New Mexico subdivision Act at Section 47-6-11 NMSA 1978. The subdivider must notify reviewing staff and the County Manager within seven (7) days of receipt of agency and reviewing staff opinions whether he will defer his application or proceed with the approval process. The subdivider may then resubmit his application to the reviewing staff for resubmittal to the relevant agencies. After notification to proceed with the application by the subdivider, either after the original application or amended application is reviewed by State agencies, the reviewing staff and/or County Manager will have a maximum of 30 days for review prior to submitting the application to the County Commission, and giving notice of hearing as required by Section 2.B.3 below. The reviewing staff shall make recommendations concerning the subdivider's compliance with regulations herein which shall be transmitted to the County Commission with the application. All opinions required of State agencies must be furnished to the Board of County Commissioners within thirty days after the State agencies receive the written request and accompanying information from the Board of County Commissioners. If the Board of County Commissioners does not receive a requested opinion within the thirty-day period, the Board shall proceed in accordance with its own best judgment concerning the subject of the opinion request. The failure of a State agency to provide an opinion when requested by the Board of County Commissioners does not indicate that the subdivider's provision concerning the subject of the opinion request were acceptable, unacceptable, adequate, or inadequate.
3. Public hearings on preliminary plats shall be held within thirty days from the receipt of all requested public agency opinions where all such opinions are favorable, or within thirty days from the date all public agencies complete their review of any additional information submitted by the subdivider pursuant to Section 47-6-11 NMSA 1978. If the Board of County Commissioners does not receive a requested opinion within the

thirty-day period, the Board shall proceed. The Board of County Commissioners shall adhere to the following requirements concerning any hearing regarding any preliminary or final plat:

- a. Notice of the hearing shall be given at least twenty-one days prior to the hearing date and shall state:
 1. The subject of the hearing:
 2. The time and place of the hearing:
 3. The manner in which interested persons may present their views:
and
 4. Where interested persons may secure copies of any favorable or adverse opinion of the subdivider's proposal. The Board of County Commissioners may impose a reasonable charge for the costs incurred in reproducing and mailing the opinion and proposal to those persons requesting copies:
 - b. The notice shall be published in a newspaper of general circulation in the county.
 - c. Reasonable effort shall be made to give notice to all persons who have made a written request to the Board of County Commissioners for advance notice of its hearings. Notice shall also be given to any State or other agency that issued an opinion or withheld an opinion on the basis of insufficient information.
 - d. At the hearing, the Board of County Commissioners shall allow all interested persons a reasonable opportunity to submit data, views or arguments, orally or in writing, and to examine witnesses testifying at the hearing.
 - e. The Board of County Commissioners shall approve, approve with conditions, or disapprove the preliminary plat within thirty days of the public hearing at a public meeting of the Board of County Commissioners.
4. Whether or not the subdivider requests a hearing, the County Commission will hold a public hearing, according to the procedures set forth in Section 47-6-14 NMSA 1978 before approving a preliminary and final plat. Public hearings for subdivisions north of Abiquiu will be held in Tierra Amarilla. All other hearings will be held in Espanola.

5. The County Commission will review the preliminary plat application, the agencies' comments, the reviewing staff's comments, and the record of the public hearing, and then approve, conditionally approve, table for further review, or deny the preliminary plat.
- C. Approval or conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather, it shall be deemed as an expression of approval by the County Commission of the layout submitted on the preliminary plat as a guide to the preparation of the final plat which will be submitted for approval to the Board of County Commissioners for recording upon fulfillment of the requirements of these Regulations, and the execution of a subdivision improvement agreement setting forth conditions to be fulfilled by the subdivider and the County in developing the subdivision and the posting of security by the subdivider, where appropriate. (NMSA Section 47-6-16)
- D. Preliminary Plat approval shall not be given by the County Commission unless the County Commission determines that the subdivider can fulfill the proposals contained in his disclosure statement and that the subdivider's proposal conforms with the New Mexico Subdivision Act and with these Regulations.
- E. The conditions of a subdivision improvements agreement should be developed by the reviewing staff and/or County Manager and/or County Commission during the preliminary plat reviewing process, based on their own assessment of the subdivider's application and State and other agency opinions. The subdivision agreement shall set forth the obligations of the subdivider and the County in completing improvements in the subdivision and providing services to the subdivision. The subdivider shall obtain estimates from licensed engineers and/or contractors for completion of improvements required to be completed under the subdivision agreement. The subdivision agreement shall require the subdivider to post security in the amount of 125% of the estimated cost of completion of all improvements, except as otherwise provided in these Regulations.

Section 3 - Final Plat Procedure

- A. The final plat shall conform substantially to the preliminary plat as approved, and if desired by the subdivider, it may constitute only that part of the approved or conditionally approved preliminary plat which he proposes to record and develop at that time, provided however, that such part conforms to all requirements of these Regulations, and provided further, that the County Commission may require the subdivider to include or exclude from the

final plat such parts of the development as it deems necessary to assure orderly development. The final plat should clearly state whether roads or other improvements are public and private, and who has the responsibility for maintaining the roads. There should be a signature line on the plat to show acceptance of the roads and other improvements for maintenance by the County, if and when this occurs. The final plat shall comply with the New Mexico Subdivision Act and these Regulations. (See NMSA Section 47-6-3 for complete verification)

- B. Application for approval of the final plat shall be submitted in writing to the Board of County Commissioners not less than thirty (30) days prior to the County Commission meeting at which it is to be considered. A public hearing, pursuant to Section 47-6-14 NMSA 1978 procedure, will be scheduled for the meeting at which the Commission will consider the final plat. Conditions of preliminary plat approval must have been met at this point. The subdivision improvements agreement must be executed and security must be posted, in the form of a bond, letter of credit, escrow account, certificate of deposit, or other security, with the County as beneficiary. The reviewing staff and/or County Manager shall also determine that all required filing and review fees have been paid in full. Fees in the amount required in the schedule of fees for final plat approval will accompany the final plat application. The reviewing staff and/or County Manager shall submit a written report of its findings together with a recommendation to approve or disapprove the final plat at the same time the final plat is submitted for consideration by the County Commission.
- C. The original drawing of the final plat and four blueline or blackline copies thereof and all other exhibits required for approval shall be prepared as specified in Article VII and shall be submitted with the application for final plat approval within twelve months after approval or conditional approval of the preliminary plat; other wise such approval or conditional approval shall become null and void unless an extension of time is applied for, in writing, by the subdivider and granted by the County Commission. If an extension of time is applied for, such application shall be submitted to the County Commission meeting at which it is to be considered. A fee shall be assessed and paid by the subdivider at the time of application for final plat approval sufficient to reimburse the County for the cost of inspection of the subdivision after construction of all required improvements.
- D. **TIME LIMIT ON ADMINISTRATIVE ACTION. (Effective July 1, 1996)**
 - 1. All opinions required of public agencies shall be furnished to the Board of County Commissioners within thirty (30) days after the public agencies receive the written request and accompanying information from the Board of County Commissioners. If the Board of County Commissioners does

not receive a requested opinion with the thirty (30) period, the Board shall proceed in accordance with its own best judgment concerning the subject of the opinion request. The failure of a public agency to provide an opinion when requested by the Board of County Commissioners does not indicate that the subdivider's provisions concerning the subject of the opinion request were acceptable or unacceptable or adequate or inadequate.

2. Final plats submitted to the Board of County Commissioners for approval shall be approved or disapproved at a public meeting of the Board of County Commissioners within thirty (30) days of the date the final plat is deemed complete.
 3. If the Board of County Commissioners does not act upon a final plat with the required period of time, the subdivider shall give the Board of County Commissioners written notice of its failure to act. If the Board of County Commissioners fails to approve or reject the final plat within thirty (30) days, the Board of County Commissioners shall, upon demand by the subdivider, issue a certificate stating that the final plat has been approved.
- E. If the final plat is approved by the Board of County Commissioners, such approval shall be recorded on the face of the original drawing of the final plat and on two copies thereof by and such approval shall be dated and verified thereon by the signatures of the Chairman of the Board of County Commissioners, the County Manager, and the appropriate utility companies in the space provided for such and such dates and signatures shall be affixed by the use of black india ink; or if the final plat is denied by the Board of County Commissioners, the reasons for denial shall be referenced and attached to two (2) copies of the final plat and such action shall be dated and verified by the signatures of the Chairman of the Board of County Commissioners and the County Manager affixed to said copies. In either event, one (1) of said signed copies shall be returned to the subdivider and the other shall become a part of the files of the County Manager's Office: and, if such plat is approved, the original drawing of the same shall be used in part for recordation purposes and thereafter retained in the files of the County Manager or if the final plat is denied, the original drawing shall be returned to the subdivider.
- F. The final plat and subdivision improvements agreement shall be recorded at the same time by the County Clerk and the County Manager shall notify the subdivider of the date of such recording. Final plats shall be recorded within five (5) working days after the acceptance by the Board of County Commissioners, of the public dedications, if any, shown thereon, but not until such acceptance. The acceptance of a public dedication by the

County does not necessarily imply the maintenance of such dedication. A copy of all approved final plats, replats, subdivision improvements agreements, and disclosure statements shall be forwarded to the Attorney General, the State Engineer's Office the Environmental Improvement Division Office, the reviewing Forestry Division Office, the servicing local fire department, and any other agency requesting these documents, by the County Manager.

- G. Any person who is or may be adversely affected by a final decision of the Board of County Commissioners or its delegate in approving or disapproving a subdivision plat may appeal to the District Court of the County within thirty days of the date of the Board's action, pursuant to Section 47-6-15 of the New Mexico Subdivision Act. An appeal is perfected by filing a Notice of Appeal in the District Court. A copy of the Notice of Appeal shall be served upon the Board of County Commissioners. Upon appeal, the District Court shall set aside the action of the Board of County Commissioners or its delegate only if it is found to be arbitrary, capricious, or an abuse of discretion; not supported by substantial evidence; or otherwise not in accordance with law. Any party to the action in District Court may appeal to the Court of Appeals for further relief.

- H. An approved or conditionally approved preliminary plat shall expire twenty-four (24) months after its approval or conditional approval, or after an additional period of time as may be prescribed by county regulation, not to exceed an additional twelve (12) months. However, if the subdivider proposes to file multiple final plats as provided for under county regulations governing phased development, each filing of a final plat shall extend the expiration of the approved or conditionally approved preliminary plat for an additional thirty-six (36) months from the date of its expiration or the date of the previously filed final plat, whichever is later. The number of phased final plats shall be determined by the Board of County Commissioners at the time of the approval or conditionally approval of the preliminary plat.
 - 1. Prior to the expiration of the approved or conditional approved preliminary plat, the subdivider may submit an application for extension of the preliminary plat for a period of time not exceeding a total of three (3) years.
 - 2. The expiration of the approved or conditionally approved preliminary plat shall terminate all proceedings on the subdivision, and no final plat shall be filed without first processing a new preliminary plat.

Section 4 - Summary Procedure

- A. For only certain Type III (See NMSA 47-6-11 (I)) Subdivisions and all Type V Subdivisions, the following procedure will apply:
 - 1. The subdivider may file an application for a preliminary plat and final plat at the same time.
 - 2. All procedures for Summary Subdivision approval are set forth herein and shall be followed pursuant to Appendix P.

Section 5 - Fees and Levies

- A. Subdivider submitting an application of preliminary plat or an application of final plat for approval shall pay a Subdivision Review Fee according to the following schedule and rate:
 - 1. Preliminary Subdivision Plat \$15.00 per plat
 - 2. Final Subdivision Plat \$20.00 per lot
\$ 2.50 per lot
 - 3. Boundary Surveys \$30.00 per plat
 - 4. Type-Three and Type-Five Subdivisions regulated under the Rio Arriba County Summary Review Process and Procedure \$10.00 per lot. (See Appendix P)
 - 5. Applications for subdivisions in designated wildlife areas, will be assessed an actual costs of processing and conducting public hearings.
 - 6. Administration of Subdivision Improvement Agreements will be assessed based on actual costs of processing, inspection, and enforcement.
- B. Additional fees for unusual circumstances - if the county does not have qualified employees to assist in reviewing subdivision reports, plans, and plats, and must hire a person to conduct such reviews, the county may charge an additional fee to defray the cost of such review.

ARTICLE VII

PLATS AND DATA

Section 1-Pre-Application Plans and Data - Sketch Plans and Disclosure Statement

In order that the reviewing staff and County Commission may have sufficient information to determine the feasibility of the subdivider's proposal, the following data may be presented for review prior to filing an application for approval of the preliminary plat.

A. Sketch Plan

1. The Sketch shall contain the general layout of streets, number, size and layout of lots, location of proposed public schools, parks and other public facilities, if any, and proposed utilities.
2. Supplementary data as specified in Article VII if required as follows:

Section 2-C-1 - Vicinity Map

Section 2-C-2 - Existing Characteristics

Section 2-C-3 - Topographical and Natural Features

Section 2-C-4 - Soils

Section 2-C-7 - Water Availability and Water Quality

Section 2-C-9 - Liquid Waste Disposal Plan

Section 2-C-10 - Solid Waste Plan

Section 2-C-11 - Community Facilities Plan

B. Disclosure Statement - (See Article XI)

Section 2 - Plats and Data for Preliminary Plat Approval

- A. Preliminary Plat Format - As part of the application for preliminary plat approval, the subdivider shall submit a specified number of blue-line or black-line copies of the preliminary plat as agreed in the pre-application conference, which shall be drawn at a scale not smaller than one (1) inch equals two hundred (200) feet. The preliminary plat shall be presented on a sheet or sheets twenty-four (24) inches wide by thirty-six (36) inches long within which are borders one-half (1/2) inch wide on all sides. Where necessary, the Plat may be on more than one (1) sheet, provided that if the Plat is one more than two (2) sheets, they shall be accompanied by an index sheet of the same size, showing the entire subdivision.

Preliminary Plat Data Requirements

Purpose. At a minimum, the supporting documentation required for the preliminary plat review shall provide sufficient information for the County to determine whether:

1. Water is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses; (See Appendix A)
2. Water is of an acceptable quality for human consumption and measures are taken to protect the water supply from contamination; (See Appendix B)
3. There is a means of liquid waste disposal for the subdivision; (See Appendix D)
4. There is a means of solid waste disposal for the subdivision; (See Appendix E)
5. There are satisfactory roads to each parcel, including entry and exit for emergency vehicles, and there are appropriate utility easements to each parcel; (See Appendix F)
6. Terrain management protects against flooding, inadequate drainage and erosion; (See Appendix G)
7. There are protections for cultural properties, archaeological sites and unmarked burials that may be directly affected by the subdivision, as required by the New Mexico Cultural Properties Act;
8. The subdivider can fulfill the proposals contained in the Disclosure Statement for the subdivision; and
9. The subdivision will conform with the New Mexico Subdivision Act and these Regulations.

Minimum documentation. Supporting documentation shall, at a minimum, include:

1. Water supply plan including conservation, water quality, and fire protection components, this must be done pursuant to Appendix A of the Rio Arriba County Subdivision Regulations;
2. Liquid waste disposal plan
3. Solid waste disposal plan;

4. Accessibility of site to roads and utilities;
 5. Terrain management plan; and
 6. Cultural properties protection.
- B. Preliminary Plat Content - The Plat shall show all proposals, including the following:
1. Streets: Names, right-of-way widths, approximate grades, distance between intersections, and curve radii;
 2. Proposed right-of-way easements: Location, width and purpose;
 3. Approximate lot dimensions; lot and block numbers:
 4. Sites to be reserved or dedicated for public use; if roads are to be private, this should be stated on the Plat, as well as information concerning responsibility for maintenance of the road.
 5. Site data: Total Acreage: The number of lots; the minimum and typical lot area, and the acreage proposed for public use if any:
 6. A disclosure statement in accordance with New Mexico Subdivision Act.
- C. Supplementary Plan and Data - All plans shall contain the subdivider's name and address and the Disclosure Statement and as schedule of compliance.
1. Vicinity Map: A vicinity map drawn at a scale of not more than 2,000 feet to one inch showing contours at not more than forty (40) foot intervals showing the relationship of the site to its general surroundings, and the location of all existing drainage channels, water courses and water bodies.
 2. Existing Characteristic: A description of existing conditions on land adjacent to the site. Maps shall include the following:
 - a. Boundary Lines; bearings and distances: The error at closure shall be of a third order survey.
 - b. Easements: Location, width and purpose.

- c. Streets on and immediately adjacent to the tract: name right-of-way width, location, type of surfacing: sidewalks, curbs, gutters, culverts, etc.
 - d. Utilities on and immediately adjacent to the tract: Location, size and elevation of storm and sanitary sewers: location and size of water mains: location of gas lines; if water mains and sanitary sewers are not located on or adjacent to the tract, the direction, distance and size of closest utilities showing elevation of sewers shall be indicated.
 - e. Owners of record of unplatted land and existing subdivision plats by name and recordation shall be shown for property adjacent to the tract.
 - f. Zoning on and adjacent to the tract, if any.
 - g. Title and Certificates: Present tract designations according to official records in the County Clerk's Office: title under which the proposed subdivision is to be recorded, with name and address of owner, notation stating acreage scale, true and magnetic north arrow, U.S.G.S. datum and benchmarks, if any, certification of the engineer or land surveyor licensed in accordance with the law of the State of New Mexico who prepared the plat, which certification is mandatory and a metes and bounds description of the tract.
3. Topographical and Natural Features - Description of the topographical features of the site. This description should refer to the terms and requirements of the Rio Arriba County Flood Control Ordinance, No. 1982-1, which is attached hereto as Appendix H and incorporated herein. Information presented on maps dealing with topographical features shall include the following:
- a. Existing contours.
 - b. The location of all watercourses, drainage areas and water and erosion control structures.
 - c. Surface Geology - rock outcroppings, waterfalls, etc.
 - d. Vegetation - Wooded areas and existing vegetation.
 - e. Identification of wildlife habitats, including plants, animals, and fish.

- f. Identification of scenic vistas.
4. Soils - The soils of the proposed site shall be described as follows:
- a. Soil types, generally described.
 - b. Soil depth.
 - c. Areas and depth of the seasonal high water table, if any.
 - d. Areas of potential flood hazards including floodway, flood fringes, and flood plain.
 - e. Estimated engineering properties, such as depth of soil, range in permeability, soil reaction and shrink-swell potential.
 - f. Interpretations of soils for community use, such as suitability for uses for topsoil, sand, gravel, road fill, and embankment material; and limitations for uses within the subdivision such as streets and roads, sanitary landfill, off-site sewage disposal, and septic tank filter fields.
5. Street Plans:
- a. Proposed street grades and typical cross-sections.
6. Terrain Management Plan - To include the following:
- a. General Grading Plan.
 - b. Storm Drainage Plan including:
 - 1. Storm drainage computations of the estimated runoff from the subdivision following completion of development:
 - 2. Quantities of water carried by major drainage courses and proposed treatment of major drainage courses:
 - 3. The location, type and size of proposed drainage and erosion control structures:
 - 4. The location and width of major drainage easements.

- c. Landscaping Plan, indicating how vegetation will be used to control erosion.
 - d. Wildlife Habitat Protection Plan. NOTE: The Game and Fish Division and Resource Development Division of the New Mexico Natural Resources Department may be consulted for assistance in identification of wildlife habitats and planning for their protection.
7. Water Supply Plan: All subdivider must submit a plan for a water supply system, or community water supply system, if applicable, or an application for a variance meeting the criteria in Article X, Section C.
- a. Water source and availability (see Appendix A for requirements).
 - b. Water Quality (see Appendix B for requirements).
8. Water Supply system Plan (see Appendix C for requirements).
9. Liquid Waste Disposal Plan including:
- a. If the plan is for the use of individual liquid waste disposal systems, the Plan shall follow the recommendations as shown in Appendix D.
 - b. If the Plan is for the use of a community liquid waste disposal system, the Plan shall follow the recommendations as shown in Appendix D.
10. Solid Waste Plan (see Appendix E for requirements).
11. Community Facilities Plan: The community Facilities Plan shall contain the type, location and size of the proposed facilities. Responsibility for development and maintenance will be stated.
- a. Parks and recreation facilities;
 - b. Schools;
 - c. Fire and Police;
 - d. Gas and Power, Telephone
12. Wildfire Safety Data: If the subdivision is in a designated Wildfire Hazard Area, the plat must comply with requirements set forth in the

Wildfire Safety Guidelines and Standards for Subdivisions and Developments incorporated herein as Appendix L, and must also submit an Application or a Development Permit in compliance with the Wildfire Hazard Control Regulations, also incorporated in Appendix L. NOTE: This provision will not take effect until the board of County Commissioners, with the assistance of the Forestry Division of the New Mexico Natural Resources Department, identifies and designates Wildfire Hazard Areas, and prepares maps of these areas, which are available for review in the office of the County Manager in Espanola and Tierra Amarilla. The designation of Wildfire Hazard Areas will be by County Ordinance, according to statutory procedures. The ordinance will be incorporated into these regulations.

Section 3 - Plats and Data for Final Plat Approval

- A. Final Plat format - The original drawing of the Final Plat shall be in black india ink, on tracing cloth or drafting film such as "Mylar" or acetate. Sheets shall be twenty-four (24) inches wide and thirty-six (36) inches long, one-half (1/2) inch wide borders, drawn at a scale of one (1) inch not to exceed two hundred (200) feet. If the plat is drawn on more than two (2) sheets, they shall be accompanied by an index sheet of the same size showing the entire subdivision. The original drawing and four (4) blue-line or blackline copies shall be submitted with the application for approval of the final plat.
- B. Final Plat Content - The final plat shall show and be accompanied by the following information:
 1. Primary control points, approved by the County Engineer, or descriptions and "ties" to such control points to which all dimensions, angles, bearings and similar data shall be referred.
 2. Location, description, distance, boundaries, and roads of all monuments. (47-6-3)
 - a. Name of subdivision, scale, magnetic north arrow, and date;
 - b. Permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
 - c. Tract boundary lines, easement and right-of-way lines, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves;

- d. Accurate description of legal access to, roads to, and utility easements for each parcel, and if the access or easement is based upon an agreement, the recording data in the land records for the agreement;
 - e. Name, right-of-way width, and centerline data of each road or other right-of way;
 - f. Location, dimensions, and purpose of all easements and dedicated public sites;
 - g. Number of each parcel in progression, with its dimensions, and the dimensions of all land dedicated for public use or for the use of the owners of parcels fronting on or contiguous to the land;
 - h. Names of owners of contiguous unplatted land;
 - i. Delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency;
 - j. The names of the owner or owners of the subdivision, and the developer if other than the owner;
 - k. Legal description indicating the range, township, and section within which the subdivision is located.
3. Tract boundary lines, right-of way of streets, easements, and other rights-of-way, and property lines of residential lots and other sites; with accurate dimensions, bearings or deflection angels, and radil, arcs, and central angles of all curves.
 4. Name and width of each street or other right-of-way and centerlines of street rights-of-way with dimensions between intersection centerlines or tract boundary lines: location, dimensions and purposes of any easements.
 5. Locations, dimensions and purposes for which public sites, if any, are to be dedicated or reserved.
 6. Number to identify each block and each site or lot.
 7. Minimum building setback line on all lots and other sites, if such is required by the County Commission.

8. Name of record owners of adjoining unplatted land.
9. Copies of all covenants, deeds real estate contract forms and homeowners association by-laws for development and maintenance of subdivision.
10. The final plat will meet all the requirements of final disclosure as required by the New Mexico Subdivision Act and these Regulations.
11. Reference to recorded subdivision plats of adjoining platted land by record name and date.
12. Certification of a licensed land surveyor, who shall be licensed in accordance with the laws of the State of New Mexico, certifying to the accuracy of survey and plat, and that the same has been prepared by him.
13. Certification of title showing that the subdivider is the owner of the land, and that the subdivision as it appears on the plat is with the free consent and in accordance with the desires of the owner, which certification shall be signed by the owner.
14. Planning and Platting Affidavit. (See NMSA 47-6-4)
15. Signed statement by the owner dedicating streets and other right-of-way, granting easements for public use and dedicating any sites for public use.
16. Certificate of acceptance by the Board of County Commissioners, of the dedications of streets and other right-of-way, and dedication of any sites for public use.
17. The final plat shall clearly state that the subdivider has agreed to build the roads within the subdivision in full conformation with the requirements of the County Land Subdivision regulations. It shall also state who will have the responsibility for maintaining them.
18. The final plat shall have a space for certification of acceptance for maintenance of roads and other improvements by the County, to be completed if and when this acceptance occurs.
19. The final plat shall have a space for certification by all utilities serving the subdivision that they will provide such service.

20. Water Permit. For all subdivisions containing twenty (20) or more parcels, any one of which is two (2) acres or less in size, the subdivider shall provide a copy of the water permit issued by the State Engineer for subdivision water use. The County shall not approve the Final Plat unless the State Engineer has issued a water right permit for the subdivision water use.
 21. Land Sale Act. Any subdivider who has satisfied the disclosure requirements of the Interstate Land Sales Full Disclosure Act, may submit the approved statement of record in lieu of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not covered in the subdivider's statement of record shall be attached to the statement of record.
- C. Required dimensions shall be shown to the nearest one hundredth of a foot and angles to the nearest one-half minute.
 - D. All signatures shall be written with black india ink.
 - E. Dedications of public rights-of-way, and public sites shown on a subdivision plat shall be a part thereof and shall not be dedications separate therefrom.
 - F. All plans, preliminary plats and changes in these plans become part of the final plat and its approval.
 - G. A certificate by the County Clerk or County reviewing staff certifying that the subdivider has complied with the following improvement agreement: (NMSA 47-6-6)
 1. If a Type I, Type II, or Type IV Subdivision, the execution of Subdivision Improvements Agreement in a form acceptable to the County, wherein the subdivider agrees to construct the improvements within an agreed period of time, and has posted security, in the amount of 125% of the estimated cost of completion, as formulated by a licensed engineer or contractor.
 2. If a Type III, or Type V Subdivision:
 - a. The execution of a Subdivision Improvements Agreement and certification by the County Manager that all improvements have been installed in accordance with the requirements of these Regulations and with the action of the Board of County

Commissioners giving approval or conditional approval of the preliminary plat, or;

- b. The execution of a Subdivision Improvements Agreement in a form acceptable to the County, wherein the subdivider agrees to construct any improvements within an agreed period of time and has posted security, running to the County, in the amount of 125% of the estimated cost of completion, as formulated by a licensed engineer or contractor.
- H. Other Data: Such other certificates, affidavits, endorsements, or deductions as may be required by the County Commission, in the enforcement of these Regulations or as may be specified elsewhere herein.
- I. Vacation of plats; approval; duties of County Clerk; effect.
1. Any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if:
 - a. The owners of the land proposed to be vacated sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated; and
 - b. The statement is approved by the Board of County Commissioners of the County within whose platting authority the vacated portion of the subdivision is located.
 2. In approving the vacation of all or a part of a final plat, the Board of County Commissioners shall determine whether or not the vacation will adversely affect the interests of persons on contiguous land or persons within the subdivision being vacated. In approving the vacation of all or a portion of a final plat, the Board of County Commissioners may require that streets dedicated to the County in the final plat continue to be dedicated to the County. The owners of parcels on the vacated portion of the final plat may enclose in equal proportions the adjoining streets and alleys that are authorized to be abandoned.
 3. The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the office of the County Clerk in which the final plat is filed. The County Clerk shall mark the final plat with the word "Vacated" or "Partially Vacated" and refer on the final plat to the volume and page on which the statement of vacation is recorded.

4. The rights of any utility existing prior to the vacation, total or partial, of any final plat are not affected by the vacation of a final plat.

ARTICLE VIII

DEVELOPMENT PLAN DATA

If a Development Plan is required, the Subdivider shall provide the following information:

- A. A Color Coded Development Plan Map superimposed on topography with contours at intervals appropriate to the scale and land slope.
 1. Legend interpreting the map.
 2. Written report explaining map interpretation of residential, commercial, recreational, industrial, educational and other functional areas.
 3. Criteria used in determining the size and location of (2) above.
 4. Location Map.
- B. Total acreage to be developed.
 1. How units will be phased.
- C. Number of lots:
 1. Under one acre.
 2. Over one acre but less than two and one-half acres.
 3. Two and one-half acres and over.
- D. Development Plan policies relative to:
 1. Residential - Architectural design and quality of home to be constructed.
 - a. Single-family units.
 - b. Multi-family units.

2. Parks, open space.
 - a. Dedicated park areas for neighborhood - community recreation.
 - b. Bridle path - arroyo systems.
 - c. Natural or "wild" areas.
 3. Community Facilities (number, location, who will develop and when, who will maintain and when). Criteria used in determining size and location.
 - a. Parks and recreation facilities.
 - b. Schools.
 - c. Fire and police.
 - d. Gas and power, telephone.
 - e. Medical facilities, related services.
 4. Transportation Plan.
 5. Commercial Areas - Number, location, type restrictions and development and maintenance schedules; criteria used in determining size and location.
 6. Industrial Areas - Number and location, type restrictions (number, location, who will develop and when, who will maintain and when): criteria used in determining size and location.
- E. Water Supplying Plan - Water System - All subdivider must submit a plan for a water supply system or community water supply system, if applicable, or an application for a variance, meeting the criteria in Article X, Section C.
- F. Soiled Waste Disposal Plan - as outlined in Appendix E.
- G. Liquid Waste Plan - as outlined in Appendix D.
- H. Terrain Management Plan - as outlined in Appendix G, which includes plan for landscaping for erosion and dust control, and plans for protection of natural vegetation, wildlife habitats, scenic vistas, and other environmental features, such as streams, water falls, etc.

- I. Timing and Staging of Development:
 - 1. Unit priorities and projected development period.
- J. Copy of deed restrictions, protective covenants.

ARTICLE IX

DESIGN STANDARDS

These design standards are intended to be a guide to the subdivider. Deviation from these standards may be made by the reviewing staff and/or the County Commission upon presentation of documented justification.

Section 1 - General

- A. The arrangement, character, extent, width, grade, and location of all streets shall conform to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets.
- B. The proposed street layouts shall be made according to sound land planning practice for the type of development proposed, and shall be coordinated with street system of the surrounding areas. All streets must provide for the continuation of appropriate projections of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding tracts.
- C. The dedication of half streets at the perimeter of a new subdivision is prohibited. If circumstances render the dedication of full street right-of way impracticable, then adequate provision for the concurrent dedication of the remaining half of the street must be assured by the subdivider. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development.
- D. Where land is subdivided into extra large tracts where the potential for future subdivision exists, such tract shall be arranged so as to allow for the provision of future streets and a logical further resubdivision pattern.
- E. Where a proposed subdivision contains lots abutting or adjacent to a major highway, it shall be planned so as to avoid having lots fronting on the highway, it shall be planned so as to avoid having lots fronting on the highway. Subdivision roads shall be mainly for internal circulation. The subdivision shall be laid out to have a minimum number of intersections

with highways. There shall be no more than one intersection with A State Highway on a Type-3 and Type-5 subdivision, and no more than two intersections with a State Highway in a Type-2 and Type-4 subdivision, unless additional intersections are permitted, in writing, by the State Highway Department, or if required for fire protection purposes, The State Highway Department's written approval of additional intersections shall be submitted with the preliminary plat. The subdivider shall consult with the State Highway Department concerning the appropriate number and location of intersections with state highways in a Type-1 subdivision before submittal of the preliminary plat, and written approval of the number and location of intersections shall be submitted with the preliminary plat. The sight distance at any intersection must provide for adequate "stopping distance".

- F. Along County, State, or Federal designated scenic corridors, a "Greenbelt" or "Scenic Easement", of a width deemed appropriate by the Board of County Commissioners.

Section 2 - Street Design

- A. Street grades shall not exceed the following (allowing for vertical curves):

Type A and D Roadways (60 M.P.H.) (4 lane)	6%
Type B and D Roadways (30 to 50 M.P.H.) (2 Lane)	10%
Type C and D Roadways (25 M.P.H.) (2 lane)	15%

All streets shall be located so as to minimize areas of cut and fill, and in general all streets shall be located to conform to good terrain management principles. All road cuts and fills must be treated in order to minimize erosion. Cut and fill angles steeper than 2:1 ratio must be rock riprapped to minimize erosion. Where 2:1 ratio or less, cuts and fills can be treated by adapted plant materials. If cut is in bedrock, it need not be treated.

Grades approaching street intersections shall not exceed 5% for a distance of not less than 10-0 feet each way from the intersection. The road standards set forth in the Wildfire Safety Guidelines and Standards for Subdivisions and Development, attached as Appendix L, shall apply if the subdivision is located in a Designated Fire hazard Area. See Article VII, Section C. 12.

- B. Curve Radil and Superelevation

Vertical and horizontal curves and the super elevation of the horizontal curves shall conform to the requirements as set forth in the American

Association of State Highway Officials publication "A policy on Geometric Design of Rural Highways".

A tangent of at least 100 feet long shall be provided between horizontal curves.

C. Intersections

Streets shall be laid out to intersect each other as nearly as possible at right angles; under no condition shall the intersection angle be less than 70 degrees.

No two opposing street intersections shall be less than 125 feet between centerlines. Property lines at street intersections shall be rounded with a minimum radius of 25 feet.

D. Cul-de-Sacs

Cul-de-sacs (dead end streets) shall not be longer than 500 feet and there shall be provided at the closed end a turnaround having a radius of at least 40 feet to the outside edge of the outside driving lane.

E. Minimum street right-of way widths shall not be less than those set forth in Appendix F.

Section 3 - Blocks

The length of blocks shall be between 400 and 1,500 feet. The width of the block shall be sufficient to provide two (2) rows of lots. A block may be one lot in depth where a single tier of lots is required to separate residential development from a major street or a nonresidential use.

Section 4 - Lots

Shapes and location of lots shall be governed by topographic conditions, use, and surrounding of adjacent area.

Every lot shall have egress and ingress to a public thoroughfare.

Double frontage lots should be avoided. Backing a lot up to an existing high traffic road is not considered as double frontage.

Side lot lines shall be substantially at right angles or on a radial line to street lines.

When a commercial or industrial area is part of or all of a subdivision, consideration must be given to provide off street parking when sizing the lots.

For the purpose of relating lot size to natural ground slope, the following schedule shall apply:

<u>NATURAL GROUND SLOPE</u>	<u>MINIMUM LOT SIZE</u>
Less than 5%	8000 sq. ft.
5-10%	1/ acre
10-15%	2 acres
15-30%	5 acres

Section 5 - Easements and Right-of-Way

Utility easements centered on rear of side of lot lines shall have a minimum width of 12 feet. These easements must be approved by the local utility companies on the final plat.

When a subdivision is traversed by a watercourse, drainage way, channel or storm, the plat must provide a right-of-way conforming with the lines and flood plain of such water course.

Lakes, ponds and similar areas will be accepted for maintenance only if sufficient land is dedicated as a public recreational area or park, or if such area constitutes a necessary part of the drainage control system.

Section 6 - Parking

Depth and width of properties reserved or laid out for commercial use and industrial purposes shall be adequate to provide for off-street services an parking facilities adequate to serve the proposed use.

ARTICLE X

REQUIRED IMPROVEMENTS

- A. Monuments:** All subdivision boundary corners and the intersections of street centerlines shall be marked with permanent monuments at that point or with offset marking. A permanent monument shall be deemed to be either a standard concrete monument with brass cap or an iron pipe or pin at least 18 inches long and 5/8 inches in diameter with a cap identifying the land surveyor who set the monument.

B. **Streets:** Required street improvements depends upon the number of lots within the proposed subdivisions and minimum lot size as specified in Appendix F.

C. **Water Systems:** A water supply system shall be provided by the subdivider for all subdivisions. In providing a water supply system, the subdivider may utilize water rights permitted under 72-12-1 NMSA 1978 as administered by the State Engineer. A community water supply system will be required for subdivisions with minimum lot size of less than 10 acres and which contain fifteen (15) or more lots, or which will service 25 or more residents (see Definitions, Page 7), which shall comply with the Regulations Governing Water Supply of the Environmental Improvement Board of New Mexico, latest edition, incorporated herein by reference, as well as Appendix C, attached hereto. Connection to any existing community water supply system will satisfy this requirement. A subdivider may obtain a variance from this requirement if all of the following conditions can be met:

1. The subdivision will not remove any agricultural land from actual use for agricultural purposes including, but not limited to, cultivation or grazing.
2. The proposed subdivision does not adversely impact other agricultural land or the cultural fabric of any traditional community.
3. The subdivision will create affordable housing. (See definition of "affordable housing" in Article III.)
4. Service is not available from an existing water supply system of community water supply system upon payment of a reasonable line extension charge.
5. The condition of the variance will be made a part of the Subdivision Improvement Agreement.

D. **Community liquid waste treatment systems** will be required according to the number and size of lots in the proposed subdivision as specified in Schedule A as follows:

SCHEDULE A

REQUIRED IMPROVEMENTS FOR COMMUNITY WATER SUPPLY AND LIQUID WASTE TREATMENT SYSTEMS

NUMBER OF LOTS	MINIMUM LOT SIZE IN ACRES						
	LESS THAN 1	1-2 1/4	2 1/4 - 10	10	10-20	40	OR MORE

6-25	A-B	A	A
25-99	A-B	A-B	A-B
100-	A-B	A-B	A-B

NOTE: If subdivision is over 15 lots, or will service over 25 residents, it requires a "COMMUNITY WATER SUPPLY SYSTEM". A water supply system with eight (8) or more residential service connections usually will be a community water supply system.

A = Water Supply System

B = Community Liquid Waste Treatment System

- E. **Solid Waste Disposal:** The subdivider must coordinate his solid waste management plan with countywide solid waste management interests. The County may impose exactions or require payment of impact fees, calculated by a formula based on the benefit received by the subdivider from county solid waste management services, and the additional cost to the County to provide service to the new subdivision. (See Appendix E for solid waste requirements; see Appendix K for further explanation of exactions and impact fees.)

- F. **Drainage Structures:** Drainage structures shall be required in conformance with subdivider's Hydrology Report and Storm Drainage Plan as required for preliminary plat approval. They shall be designed to contain flood frequencies from 25 to 75 year storms.

ARTICLE XI

DISCLOSURE STATEMENT REQUIREMENTS

- A. Prior to the time of purchase or lease, the subdivider must provide to the purchaser or prospective purchaser or leasee a written disclosure statement.

- B. Minimum requirements for a disclosure statement in a subdivision with six (6) or more parcels, will include:
 - 1. The name of the subdivision;
 - 2. Name and address of the subdivider and the name and address of the person in charge of sales or leasing in New Mexico;
 - 3. A statement disclosing encumbrances on the property and how the lot purchaser's interest in the property will be protected in the event of

foreclosure of the property or default by the subdivider on any of his obligations;

4. The proposed uses of water, if any;
5. A statement disclosing whether the subdivider is to provide domestic water supply or the prospective purchaser or lessee will be required to provide his own domestic water supply;
6. If the subdivider is to provide water for any proposed use, the disclosure statement shall contain the following information:
 - a. The means of water delivery, water source, and written confirmation of source, if it is to be provided by municipal water system, an existing public utility, or private water company.
 - b. The minimum daily quantity of water to be provided for each parcel, if needed, and each proposed use.
 - c. The date at which water will be made available at each parcel, if needed and each proposed use.
 - d. Whether or not the prospective purchaser or lessee will be required to pay for extension of the water system to his parcel, if he desires water prior to the date scheduled under paragraph 6c of this section.
 - e. Life expectancy of the water supply under full development of the subdivision.
7. If the prospective purchaser or lessee is to provide his own domestic water supply then the subdivider must state.
 - a. Average, maximum and minimum depth to ground water within the subdivision
 - b. Estimated total depth of wells
 - c. Estimated yield in gallons per minute of wells completed to recommended total depth
 - d. Life expectancy of the water supply under full development of the subdivision
 - e. Recommended pump settings and size

- f. Lithologic character of formations through which well is to be completed
 - g. Name, address, and telephone number of the person(s) providing subdivider's water data
8. The quality of water for the proposed use, if any of the subdivision.
 9. Each maximum allowable water quality parameter exceeded with Environmental Improvement Division approval and the name of the element or compound that has exceeded the limit.
 10. The means of liquid waste disposal for the proposed use of the subdivision.
 11. The precise types of liquid waste disposal system that will be permitted for use within the subdivision including a statement that the purchaser or the prospective purchaser may use no other than a permitted system. If liquid waste disposal is to be provided by a utility or private company, a written confirmation of this service by the provider.
 12. The means of solid waste disposal for the proposed use of the subdivision. If solid waste disposal will be provided by a private contractor, a written confirmation of this service signed by the contractor.
 13. The subdivider's provisions for terrain management.
 14. The location of all lots located on slopes in excess of eight percent.
 15. The location of all lots within a flood plain, flood fringe and floodway.
 16. The suitability of the soils for residential construction.
 17. The type and installation date of any storm drainage systems.
 18. The type and installation date for all roads and its erosion control treatments.
 19. A statement disclosing the responsibility for maintenance of roads and other improvements. If these improvements are to be maintained by a Home Owners' Association this should be made clear.

20. The date on which all roads and parking areas will be surfaced including a description of the type of surfacing to be used.
- C. The subdivider shall include in this disclosure statement all the information required in subsection B above, in addition, the Disclosure statements shall be in the form as set forth in Appendices I and J of these Regulations. Each disclosure form shall contain all the information as set forth in Appendices I and J of these Regulations including the introductory statement.
- D. Disclosure statements must include a statement on the cover sheet that the lot purchaser has received a disclosure statement before sale or lease of the lot purchased and has reviewed the disclosure statement. That statement must be signed by the purchaser.
- E. The disclosure statement shall conclude with a statement that it is incorporated into the document of sale or lease of lot(s). This statement must be signed and acknowledged by the lot seller and lot purchaser(s).

ARTICLE XII

MISCELLANEOUS PROVISIONS

- A. **Exactions and Impact Fees:** The County may require subdivision exactions, in the form of dedication of land or contributions of cash in lieu of land for the purchase of land construction or provision of services or facilities perceived to be necessary by the County as a result of the development of the subdivision. Facilities and services may include, but are not limited to, roads, solid waste disposal sites, fire protection, police protection and emergency medical services. It may also levy impact fees for additional County services generated by the subdivision, in a formula based on proportion of benefit received by the subdivision and cost to the County imposed by that subdivision (see Appendix K for further information).
- B. **Wildfire Safety Regulations:** The Subdivision Regulations incorporate the Wildfire Safety Regulations for Subdivision and Developments and the Wildfire Hazard and Control regulations prepared by the New Mexico State Forestry Division of the Natural Resources Department, as set forth in Appendix L. NOTE: These wildfire regulations will not take effect until the County Commission, with assistance of the Forestry Division, has identified Wildfire Hazard Areas and has depicted them on maps available in the County Manager's offices in Espanola and Tierra Amarilla, and has adopted these designations by ordinance.

- C. **Public Utility Connection:** Public utilities should not provide service to residences without first discerning whether the residence has been constructed on a legally subdivided lot.

Any water, sewer, electric, or gas utility that connects service to individual parcels within a subdivision, before a final plat for the subdivision has been approved by the Board of County Commissioners or before the landowner holds a valid building permit, may be fined a civil penalty of up to five hundred dollars (\$500) by the Board of County Commissioners. The Board of County Commissioners may also require any utility connected in violation of this section to be disconnected.

- D. **Building Permit:** the New Mexico Construction Industries Division should not issue a building permit without first consulting the Rio Arriba Planning and Zoning on whether the residence will be constructed on a legally subdivided lot.

- E. **Rural Addressing System:** All subdividers should comply with the Rural Addressing System in numbering their lots as adopted by the County.

- F. **Coordinated Subdivision Review:** These Regulations require, a coordinated subdivision review procedure, in which the representatives of the State Engineers Office, Environmental Improvement Division, Soil and Water Conservation District, and other agencies, when considered relevant by the County reviewing personnel, meet together to exchange input in reviewing subdivision applications.

- G. **Subdivision Improvement Agreement:** A subdivision improvements agreement shall be required as a condition of approval for all subdivisions, except as provided in Article VII, Section 3.G.2(a)(b). This agreement shall set forth the responsibilities of the subdivider and the developer as to time for completion of each improvement required as a condition of subdivision approval.

1. The subdivision improvements agreement shall require that the subdivider post security, in the amount of 125% of the estimated cost of completion of each improvement, which estimate shall be attached and signed by a licensed New Mexico engineer or contractor.
2. This security may be in the form of a bond, letter of credit, escrow account, certificate of deposit, all of which should have the County as beneficiary, or any other form of security deemed acceptable by the County Commission. (See Appendices M, N, and O.)

H. Regulation of Manufactured or Mobile Homes and Mobile Home Parks: Subdivided land which is sold or leased for manufactured homes or mobile homes except for land which meets the definition of "mobile home park", herein, will be governed by these regulations. The Commission reserves the right to enact additional regulations for the regulation of mobile home parks.

I. Advertising Standards

A. Brochures, disclosure statements, publications, and advertising of any form relating to subdivided land shall:

1. Not misrepresent or contain false or misleading statements of fact;
2. Not describe deeds, title insurance or other items included in a transaction as "free" and shall not state that any parcel is "free" or given as an "award" or "prize" if any consideration is required for any reason;
3. Not describe parcels available for "closing costs only" or similar terms unless all such costs are accurately and completely itemized or when additional parcels must be purchased at a higher price;
4. Not include an asterisk or other reference symbol as a means of contradicting or substantially changing any statement;
5. If subdivision illustrations are use, accurately portray the subdivision in its present state, and if illustrations are used portraying points of interest outside the subdivision, state the actual, road miles from the subdivision;
6. Not contain artists' conceptions of the subdivision or any facilities within it unless clearly described as such and shall not contain maps unless accurately drawn to scale with the scale indicated;
7. Not contain references to any facilities, points of interest or municipalities located outside the subdivision unless the distances from the subdivision are stated in the advertisement in actual road miles; and
8. Refer to where the subdivider's disclosure statement may be obtained.

B. Copies of all brochures, publications and advertising relating to subdivided land shall be filed with the Board of County Commissioners

of the County in which the subdivision is located and with the Attorney General with fifteen (15) days after initial use by the subdivider.

ARTICLE XIII

RECORDING REQUIREMENTS

All real estate contracts or any conveyances, disclosure statements incorporated therein, warranty deeds, covenants, or other documents reflecting sales or leases of subdivision lots shall be in recordable form and shall be recorded by the subdivider within thirty (30) days of the sale in the Office of the Rio Arriba County Clerk. Along with the execution of the real estate contracts for sale of subdivision lots, executed warranty and special warranty deeds shall be placed in escrow with an independent escrow agent licensed by the New Mexico Corporation Commission. (NMSA 47-6-9 (A) (17))

ARTICLE XIV

VARIANCES

Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of these regulations would result in extraordinary hardship to the subdivider because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the objectives of these regulations, a subdivider may file a written request for a variance. The County Commission may vary modify, or waive the requirements of these Regulations upon adequate proof that compliance with Regulations at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Regulations will not result in a condition injurious to health or safety. Financial gain or loss shall not be the determining factor in deciding a variance. In arriving at its determination, the County Commission shall carefully consider the opinions of an agency requested to review and comment on the variance request. In no event shall a variance, modification of waiver be granted by the Board of County Commissioners if by doing so the intent and purpose of these Regulations would be nullified. The County Commission shall only grant a variance from the requirement that the subdivider provide a community water system if the criteria of Article X, Section C are met, and/or as described in Ordinance 1996-01, Appendix Q.

In granting variances and modifications, the Board of County Commissioners may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

ARTICLE XV

CHANGES OR AMENDMENTS

These Regulations or any portion thereof may be amended or repealed by the Board of County Commissioners in the manner prescribed by law. In promulgating subdivision regulations, the Board of County Commissioners shall adhere to the following procedures:

- A. Prior to adopting, amending, or repealing any regulation, the Board of County Commissioners shall consult with representatives of the State Engineer's office, the Department of Environment, the office of Cultural Affairs, all Soil and Water Conservation Districts within the county, the State Highway and Transportation Department, and the Attorney General about the subjects within their respective expertise for which the Board of County Commissioners is considering promulgating a regulation. In the process of the consultation, the representatives of each of the state agencies shall give consideration to the conditions peculiar to the county and shall submit written guidelines to the Board of County Commissioners for its consideration in formulating regulations. The said guidelines:
 1. Shall be given consideration by the Board of County Commissioners in the formulation of the county's Subdivision Regulations;
 2. Shall become a part of the record of any hearing in which regulations are adopted, amended, or repealed; and
 3. May be in such detail as the agency involved desires.
- B. A regulation may not be adopted, amended, or repealed until after a public hearing held by the Board of County Commissioners. Notice of the hearing shall be given at least thirty (30) day prior to the hearing date and shall state:
 1. The Subject of the regulation;
 2. The time and place of the hearing;
 3. The manner in which interested persons may present their views; and
 4. The place and manner in which interested persons may secure copies of any proposed regulation. The Board of County Commissioners may impose a reasonable charge for the costs of reproducing and mailing of the proposed regulations.

- C. The notice shall be published in a newspaper of general circulation in the county.
- D. Reasonable effort shall be made to give notice to all persons who have made a written request to the Board of County Commissioners for advance notice of its hearings.
- E. The Board of County Commissioners shall give the State Engineer, the Department of Environment, the office of Cultural Affairs, the State Highway and Transportation Department, and all Soil and Water Conservation Districts within the county, and the Attorney General thirty (30) days notice of its regulation hearings.
- F. At the hearing, the Board of County Commissioners shall allow all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing, and to examine witnesses testifying at the hearing. The Board shall keep a complete record of the hearing proceedings.
- G. Representatives from the State Engineer's office, the Department of Environment, the office of Cultural Affairs, all Soil and Water Conservation Districts within the county, the State Highway and Transportation Department, and the Attorney General shall be given the opportunity to make an oral statement at the hearing and to enter into the record of the hearing a written statement setting forth any comments that they may have about the proposed regulation, whether favorable or unfavorable, when the proposed regulation relates to an issue that is within the agencies' respective areas of expertise.
- H. A regulation is not invalid because of the failure of a state agency to submit a guideline prior to the promulgation of the regulation or because the representative of a state agency did not appear at a public hearing on the regulation or did not make any comment for entry in the hearing record.
- I. The Board of County Commissioners shall act on the proposed regulations at the regulation hearings or at a public meeting to be held within thirty (30) days of the hearing on the proposed regulations. Upon adopting, amending, or repealing the regulations, the Board of County Commissioners shall include in the record a short statement setting forth the Board's reasoning and the basis of the Board's decision, including the facts and circumstances considered and the weight given to those facts and circumstances.
- J. Any person heard or represented at the hearing shall be given written notice of the Board's decision, including the facts and circumstances considered, if the person makes a written request to the Board for notice of its decision.

- K. A regulation, amendment, or repeal is not effective until thirty (30) days after it is filed with County Clerk and the State Records Administrator.
- L. Any person who is or may be adversely affected by a decision of the Board of County Commissioners to adopt, amend, or repeal a regulation may appeal that decision to the District Court. All appeals shall be upon the record made at the hearing and shall be filed in the District Court within thirty (30) days after the Board of County Commissioners votes to adopt, amend, or repeal the regulation.
- M. An appeal is perfected by filing a Notice of Appeal in the District Court of the County that had adopted, amended, or repealed the regulation. The appellant shall certify in his Notice of Appeal that arrangements have been made with the Board of County Commissioners for preparation of a sufficient number of transcripts of the record of the hearing to support his appeal, including one copy that he shall furnish at his own expense to the Board of County Commissioners. A copy of the Notice of Appeal shall also be served upon the Board of County Commissioners.
- N. Upon appeal, the District Court shall set aside the regulation only if it is found to be:
 - 1. Arbitrary, capricious, or an abuse of discretion;
 - 2. Not supported by substantial evidence; or
 - 3. Otherwise not in accordance with law.
- O. Any party to the action in District Court may appeal to the Court of Appeals for further relief.

ARTICLE XVI

SEVERABILITY

If any provision of portion of a provision is held to be inoperative, invalid or illegal as to any situation or any person, it is the express intent of the Board of County Commissioners of Rio Arriba County that the inoperative, invalid, or illegal provision shall be severed and that all remaining provisions shall be fully operative and effective.

ARTICLE XVII

PENALTIES

Any person who sells or leases land that is a part of a subdivision before the plat has been approved and recorded, or during a period in which the subdivider's right to sell has been suspended, is guilty of a misdemeanor which shall be punishable only by a fine of not more than one thousand (\$1,000) dollars for each parcel of which a violation occurred.

Any person who publishes or disseminates any material in violation of the New Mexico Subdivision Act (47-5-9, 47-6-1, to 47-6-28 NMSA 1978) is guilty of a misdemeanor and shall be punished only by a fine of not more than ten thousand (\$10,000) dollars.

Any person who violates any other provision of the New Mexico Subdivision Act is guilty of a misdemeanor, which shall be punishable only by a fine of not more than one thousand (\$1,000) dollars for each violation of the New Mexico Subdivision Act.

A conviction based upon any violation of the New Mexico Subdivision Act require proof of and a finding of general criminal intent.

ARTICLE XVIII

RESERVATION OF JURISDICTION

- A. Upon approving a subdivision plat, the Commission expressly reserves jurisdiction to subsequently determine whether plat approval should be suspended or revoked because of:
 - 1. Any material misstatement or error of fact in the disclosure statement or any information upon which the Commission relied; or
 - 2. A subsequent failure to comply with a material provision of the disclosure statement or a subsequent failure to comply with County Regulations.
- B. Vacation of Plats

Any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if:

- 1. The owners of the land proposed to be vacated sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated; and

2. The statement is approved by the Board of County Commissioners of the County within whose platting authority the vacated portion of the subdivision is located.

In approving the vacation of all or a part of a final plat, the Board of County Commissioners shall determine whether or not the vacation will adversely affect the interests of persons on contiguous land or persons within the subdivision being vacated. In approving the vacation of all or a portion of a final plat, the Board of County Commissioners may require that streets dedicated to the County in the final plat continue to be dedicated to the County. The owners of parcels on the vacated portion of the final plat may enclose in equal proportions the adjoining streets and alleys that are authorized to be abandoned.

The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the office of the County Clerk in which the final plat is filed. The County Clerk shall mark the final plat with the words "Vacated" or "Partially Vacated" and refer on the final plat to the volume and page on which the statement of vacation is recorded.

The rights of any utility existing prior to the vacation, total or partial, of any final plat are not affected by the vacation of a final plat.

ARTICLE XVIX

EFFECTIVE DATE

This ordinance shall be in full force and effect thirty (30) days after its filing with the County Clerk and State Records Administrator, as required by law.

PASSED, ADOPTED AND APPROVED this _____ day of _____, ____.

BOARD OF COUNTY COMMISSIONERS
RIO ARRIBA COUNTY, NEW MEXICO

Chairman

Member

Member

ATTEST:

County Clerk

ARTICLE XX

APPEALS

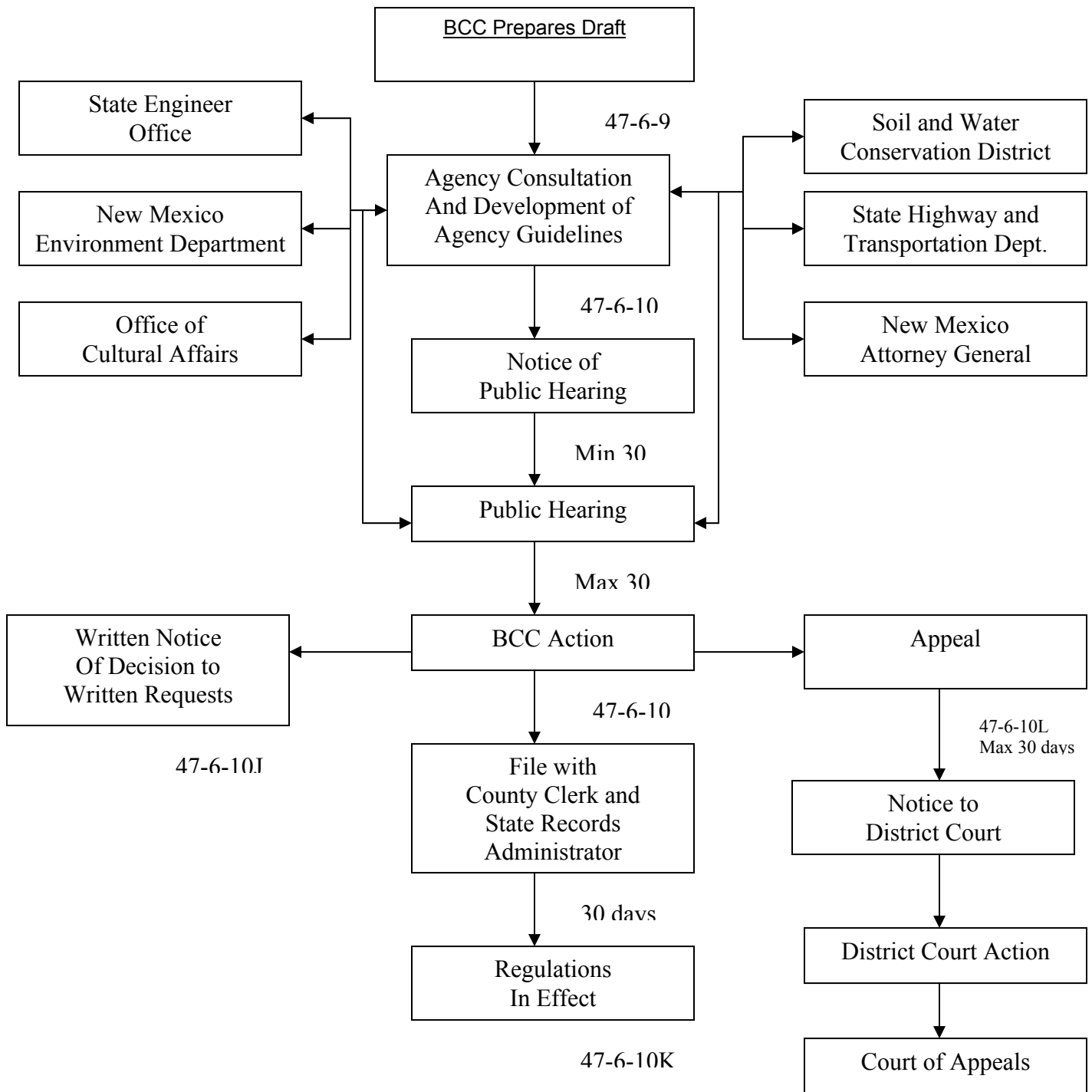
A. Who May Appeal

1. Any person who is adversely affected by a decision of the County in approving or disapproving a subdivision plat may appeal to the Board of County Commissioners within fifteen (15) days after the date of the action of the. The Board of County Commissioners shall hear the appeal and render a decision within thirty (30) days after receiving the Notice of Appeal.
2. Board of County Commissioners. Any person who is adversely affected by a decision of the Board of County Commissioners in approving of disapproving a subdivision plat may appeal to the District Court of the County in which the subdivision is located with thirty (30) days after the date of the action of the Board.

B. Appeal Process

1. Nature of review. The appeal shall consist of a whole record review, and the reviewing authority, whether it be the Board of County Commissioners or the District Court, shall set aside the action of the lower tribunal only if it is found to be:
 - a. Arbitrary, capricious, or an abuse of discretion; or
 - b. Not supported by substantial evidence; or
 - c. Otherwise not in accordance with law.
2. Standing. Any party to the action in District Court shall have full appellate rights in accordance with the laws of the State of New Mexico and the rules of appellate procedure for the State of New Mexico.
3. Notice of appeal. The appeal shall be perfected by filing a written Notice of Appeal, which sets forth the specific portion or portions of the decision being appealed. A copy of the decision or order being appealed shall be attached to the Notice of Appeal. The appeal shall be perfected upon filing of the notice required by these Regulations and payment of the required administrative fee.

Adopting, Amending, or Repealing County Subdivision Regulations

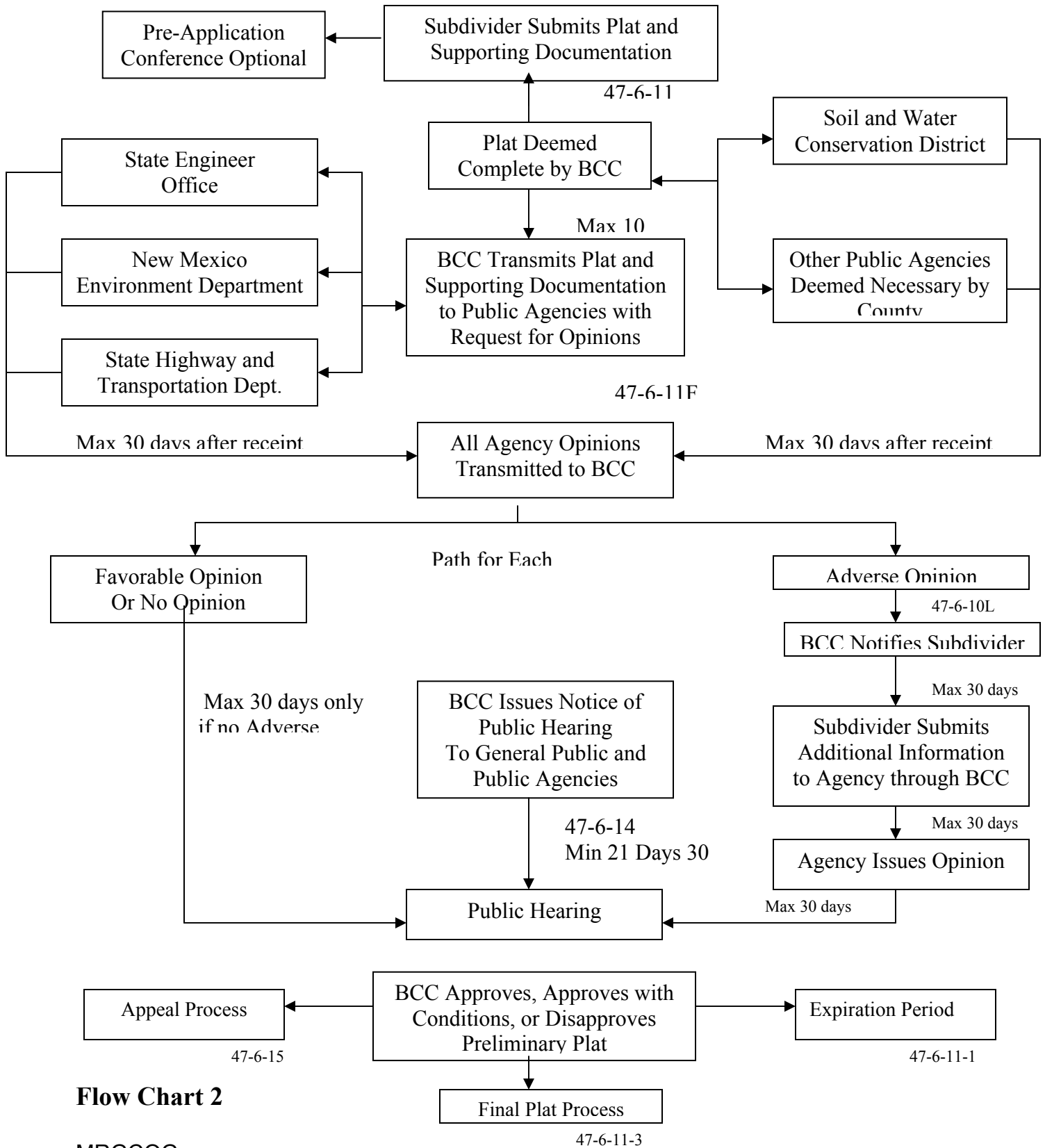


Flow Chart 1

MRGCOG
6/96

- Notes:**
1. BCC = Board of County Commissioners
 2. Statutory Date of Compliance with 1995 Act Amendments:
 - a. 7-1-96 for Bernalillo, Santa Fe, Dona Ana Counties
 - b. 7-1-97 for all other counties
 3. Statutory references are noted.

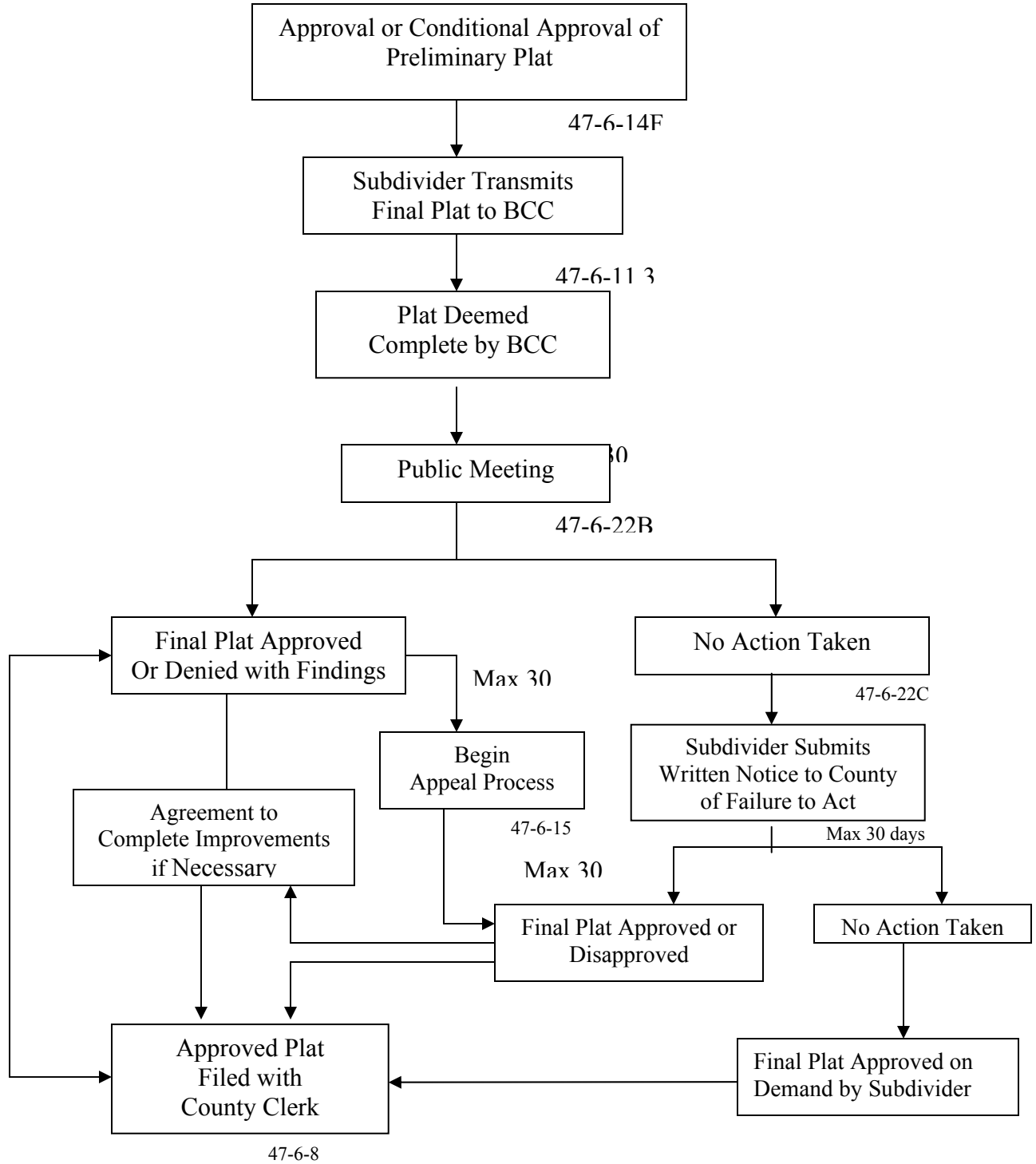
Preliminary Plat Review for Subdivision Types 1, 2, 3, 4



Flow Chart 2

- Notes:**
1. BCC = Board of County Commissioners
 2. Not all Type 3 Subdivisions qualify for summary review
 3. Statutory references are noted.

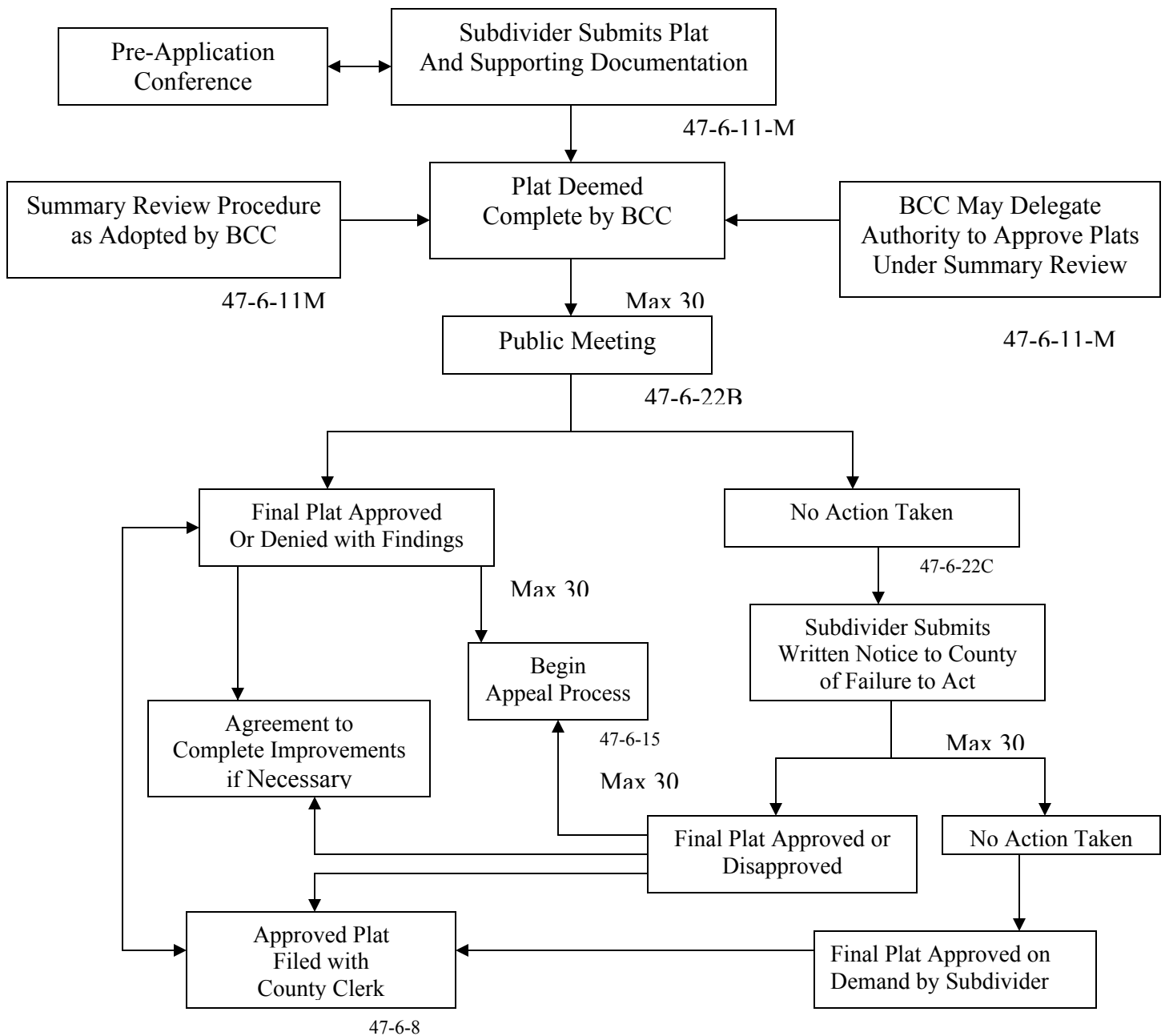
Final Plat Review for Subdivision Types 1, 2, 3, 4



Flow Chart 3

Notes: 1. BCC = Board of County Commissioners
 2. Not all Type 3 Subdivisions qualify for summary review
 3. Statutory references are noted.

Final Plat Review for Subdivision Types 3, 5

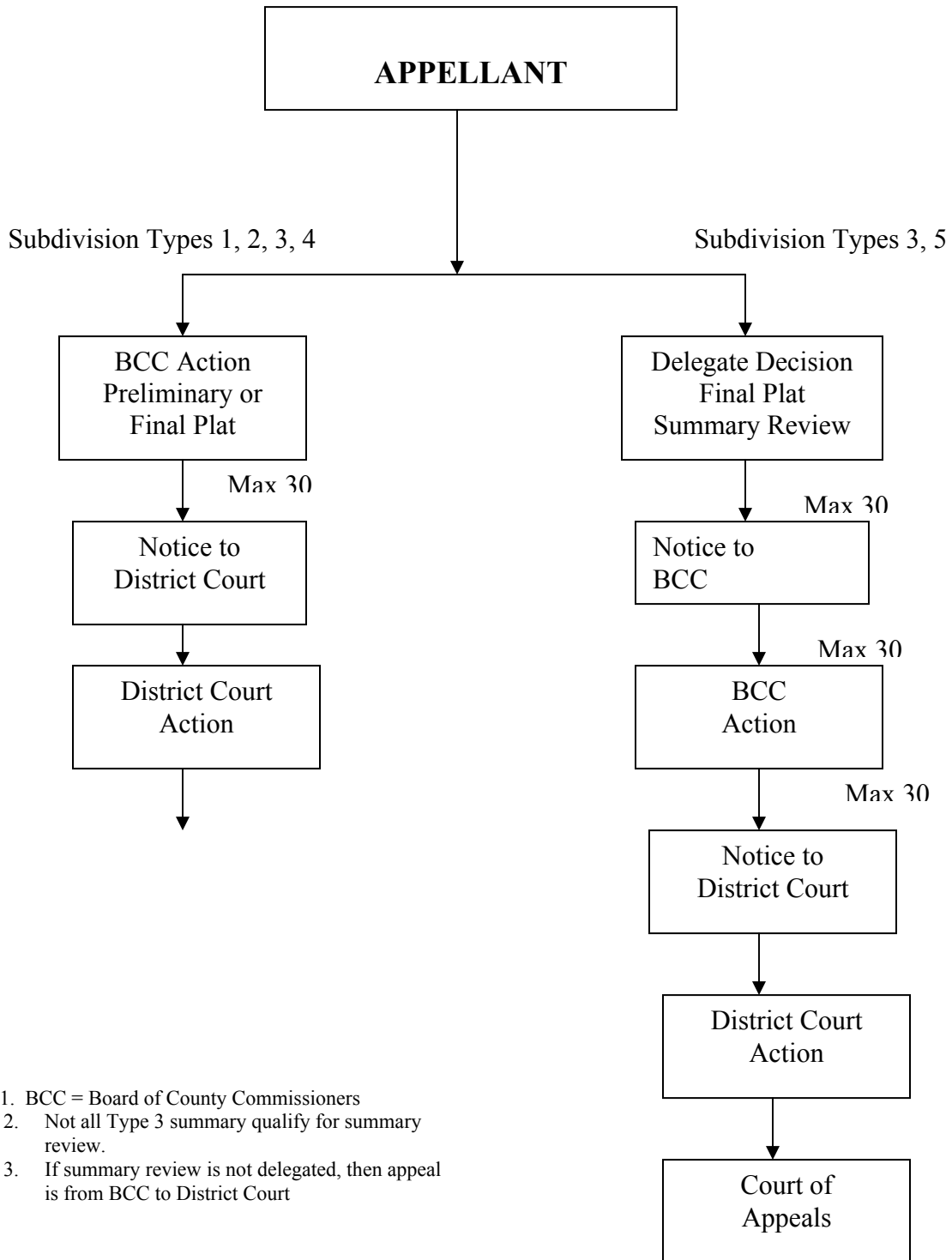


- Notes:**
1. BCC = Board of County Commissioners
 2. Type 3 summary review:
 - a. 2 to 5 parcel subdivision
 - b. If smallest parcel less than 3 acres, summary review is optional
 3. Statutory references are noted.

Flow Chart 4

MRGCOG
6/96

Appealing Decisions on Preliminary or Final Plats



- Notes:**
1. BCC = Board of County Commissioners
 2. Not all Type 3 summary qualify for summary review.
 3. If summary review is not delegated, then appeal is from BCC to District Court

Flow Chart 5

MRGCOG
6\96

APPENDIX A

WATER AVAILABILITY

Section 1 - Type I and Type II Subdivision

- A. The subdivider shall provide water as required by Article X, Subsection C, from existing or proposed water-supply systems for domestic use, fire protection, and any other use the subdivider proposes.
- B. The subdivider shall provide for the completion of the proposed water-supply system in accordance with applicable minimum design standards of the New Mexico Environmental Improvement Division and the Construction Industries Division for storage tank and water well construction, construction, disinfection and other applicable areas.
- C. All water supply systems must be equipped to provide fire protection which shall conform to the guidelines of the Insurance Services Office. The subdivider may apply for a variance from providing fire protection conforming to the Insurance Services Office guidelines, which application shall include a plan for fire protection for the subdivision and a detailed justification for noncompliance with the Insurance Services Office guidelines.
- D. The Board of County Commissioners shall require the subdivider to provide a performance bond or other surety in the amount of 125% of the estimated cost of the water-supply system, and including 125% of the estimated cost of acquiring necessary water rights or rights to water under contact with the owner of a water right.
- E. The subdivider shall submit a water-supply plan, prepared by, or under the supervision of, a registered professional engineer, with the plat of the proposed subdivision and shall include the following information:
 1. Preliminary plans and specifications for diversion, storage, and distribution facilities, and a time schedule for their completion:
 2. Information showing the volume and peak rate of production of water required in each month to supply each use at full development of the subdivision:
 3. A geohydrologic report, if part or all of the supply is to be obtained from ground water sources, containing the following information:

- a. Detailed geologic maps and cross-sections derived from geologist's or driller's logs, and descriptions of the aquifer system proposed for production, including information concerning the hydrogeologic boundaries, intake areas and locations of discharge of those aquifers;
 - b. Maps and cross-sections showing the depth to water, detailed water-level contours which reflect water table conditions at the time of the study, direction of ground-water movement and the estimated thickness of saturation in the aquifers;
 - c. Probable yields of the proposed wells (in gallons per minute and acre-foot per year) and probable length of time that the aquifer system will produce water at rates sufficient to meet the demands under full development of the subdivision. This information shall be based on pumping-test analyses performed in accordance with those standards set forth in Section III of Appendix A: hydrogeologic boundaries, aquifer leakage, and historic water-level changes, giving consideration to mutual interference of the proposed wells and the interference of existing well; and
 - d. A 40-year schedule of the effects of the projected water withdrawals for the subdivision on ground water level and/or surface water discharges within the subdivision and within one mile of subdivision boundary.
4. **A hydrologic report**, if part or all of the supply is to be obtained from surface-water sources, containing the following information:
 - a. Source of water supply;
 - b. Drainage area above the point of diversion;
 - c. Analysis of relevant historical runoff records; and
 - d. Projected water supply available for the subdivision requirements.
 5. **Fire flow at 20 lbs. per square inch the water system can deliver throughout the subdivision in gallons per minute and the time duration such flow can be maintained.**
 6. If the subdivider proposes that a utility certified by the Public Service Commission provide water, the subdivider shall provide documentation that the utility is willing and able to provide water to the subdivision.

7. If the subdivider proposes that a municipality, private utility company, or any other private party provide water, the subdivider shall provide documentation that the municipality, company, or party is willing and able to provide water to the subdivision. The documentation shall contain a statement from the municipality, company, or party indicating the quantity and quality of water available to the subdivider and any conditions or limitations pertaining to the use of the water.
- F. The subdivider's disclosure statement shall include the following information:
1. The minimum daily quantity of water to be provided for each parcel;
 2. The time at which water will be made available at each parcel, if needed.
 3. Whether or not the prospective purchaser or lessee will be required to pay for extension of the water system to his parcel, if he desires water prior to the date scheduled under paragraph F.2 above; and
 4. Life expectancy of the water supply under full development of the subdivision
 5. Name and address of the source of subdivider's hydrological and geohydrological data.

Section 2 - Type III, Type IV, and Type V Subdivisions

- A. The water supply for all proposed uses, including domestic uses, shall be provided by the subdivider unless the subdivider obtains a variance. Where a community water system is not required, the subdivider may utilize water rights permitted under NMSA 72-12-1 1978 as administered by the State Engineer. The standards applied for **granting the variance** will be those set forth in Article X, Section C. To the extent that the water supply is to be provided by the subdivider, the Regulations applying to Types I and II Subdivisions will apply.
- B. **If the domestic water supply is to be furnished by the purchaser or lessee of each parcel, the subdivider shall submit reports, prepared by or under the supervision of a registered professional engineer, in accordance with Section 1.E.3, and 1.E.4, as appropriate.**
- C. The **subdivider shall include in a disclosure statement** (whether or not such a statement is required by Chapter 348, Laws of 1973) the following information:
 1. A statement of the proposed uses of water, if any;

2. A statement disclosing whether the subdivider is to provide domestic water supply or the prospective purchaser or lessee will be required to provide his own domestic water supply;
3. If the prospective purchaser or lessee is to provide his own domestic water supply:
 - a. Average, maximum and minimum depths to ground water within the subdivision;
 - b. Recommended total depths of wells;
 - c. Estimated yield in gallons per minute of wells completed to recommended total depths;
 - d. Life expectancy of the water supply under full development of the subdivision;
 - e. Recommended pump settings and size;
 - f. Lithologic character of formations through which well is to be completed;
 - g. Source and yield of surface-water supply, if any; and
 - h. Estimated cost of a well completed to the estimated depth and equipped for production.
4. If the subdivider is to provide water for any proposed use, the disclosure statement shall also contain the information required by Section 1.F and a description of the means of water delivery.

Section 3 - Standards for Pumping Tests

- A. On-site pumping tests shall be required for all subdivisions. Tests performed with bailers shall not be accepted. Pumping tests shall be performed based on sound and accepted hydrologic, geologic, or engineering practices. Where conditions permit, pumping tests shall be performed using one of more water-level observation wells. Pumping tests shall be performed at or in excess of twice the anticipated peak production demand for the subdivision at full development. Results of pumping tests performed within one mile of the subdivision may be used in support of on-site pumping test data provided that the report demonstrates that the geohydrologic conditions at the site of such

tests are comparable to those within the subdivision. The subdivider shall inform the County in writing not less than one week prior to the anticipated start of each pumping test (or tests) in order for the County to independently verify discharge and drawdown measurements. If the subdivider fails to inform the County of a pumping test, the data from such test(s) shall be considered inadequate for submittal.

- B. All water supply systems or community water systems shall be required to submit results of 72-hour pumping and recovery tests on each well or wells which will provide water to the subdivision. Recovery measurements shall be collected for a period of seven days or when complete recovery is observed.
- C. All subdivisions proposing to supply water to the subdivision utilizing water rights permitted under NMSA 72-12-1 1979 shall submit results of 48-hour pumping tests performed on each well or wells which are proposed to supply water to the development. Recovery measurements shall be collected for a period of five days or when complete recovery is observed.

The County may require additional aquifer testing in areas where geologic conditions are complex. However, this requirement should not be interpreted to require more than one pumping test per four parcels.

Section 4 - Water Permit Required for Final Plat Approval

Water permit required for final plat approval.

- A. Until July 1, 1997, before approving the final plat for a subdivision containing twenty (20) or more parcels, any of which is two (2) acres or less in size, the Board of County Commissioners shall require that the subdivider provide a copy of a permit obtained from the State Engineer, issued pursuant to Section 72-5-1, 72-5-23 or 72-5-24 NMSA 1978, or if the subdivision is located within a declared underground water basin, provide a copy of a permit obtained from the State Engineer issued pursuant to those sections or to Section 72-12-3 or 72-12-7 NMSA 1978, for the subdivision water use. The Board of County Commissioners shall not approve the final plat unless the State Engineer has so issued a permit for the subdivision water use.
- B. On or after July 1, 1997, before approving the final plat for a subdivision containing twenty (20) or more parcels, any one of which is two (2) acres or less in size, the Board of County Commissioners may require that the subdivider provide a copy of a permit obtained from the State Engineer for subdivision water use. The Board of County Commissioners may elect not to approve the final plat if the State Engineer has not issued a permit for the subdivision water use.

The Disclosure Statement for subdivisions with not fewer than five (5) and not more than one hundred (100) parcels shall contain at least the following information:

1. A statement as to the availability and cost of public utilities;
2. A statement describing the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses, and describing the availability of water to meet the maximum annual water requirements;
3. The average depth of water within the subdivision if water is available only from subterranean source.

Section 5 - Recommended Guidelines

**RECOMMENDED GUIDELINES
FOR
COUNTY SUBDIVISION REGULATIONS
GOVERNING
WATER QUALITY, AND LIQUID AND SOLID WASTE DISPOSAL**

State of New Mexico
Environment Department
Field Operations Division
January 8, 1996

List of Sections

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1. **DEFINITIONS** -- As used in these guidelines

- A. **“Alternative disposal system”** means an individual liquid waste disposal system, which is not a conventional disposal system. It generally is used where unsuitable soil conditions exist. Some examples of alternative disposal systems are deep trench, seepage pit, fill, sand filter, sand mound, evapotranspiration, and land application.
- B. **“Arroyo”** means a dry wash or draw, which flows only occasionally.
- C. **“Bedrock”** means consolidated earth materials. It includes fractured and cavernous rock.
- D. **“Body of Water”** means all constrained water including water situated wholly or partly within or bordering the state, whether surface or subsurface, public or private.
- E. **“Canal”** means a man-made ditch or channel that carries water for purposes other than domestic consumption
- F. **“Community liquid waste system”** means a water supply system, which received a design flow of more than two thousand (2,000) gallons of liquid waste per day. It is subject to the Water Quality Control Commission Regulations.
- G. **“Conventional disposal system”** means an individual liquid waste disposal system which is a below grade soil absorption system whose excavated depth is not deeper than four (4) feet from the ground surface. Some examples of conventional disposal systems are absorption trenches and seepage beds.
- H. **“Degrade a body of water”** means to reduce the physical, chemical, or biological qualities of a body of water. It includes the release of material, which could result in the exceeding of standards established in the Water Quality Standards for Interstate and Intrastate Streams by Water Quality Control Commission Regulations and by the Drinking Water Regulations.
- I. **“Design Flow”** means the liquid waste flow rate for which a liquid waste system must be designed in order to assure acceptable performance. It is generally governed by regulations, standards, codes, and accepted references.
- J. **“Edge of a watercourse, canal or arroyo”** means that point of maximum curvature at the upper edge of a definite bank or, if no definite bank exists, the highest point where signs of seasonal high water flow exist.
- K. **“Engineer”** means a person authorized to practice professional engineering in the State of New Mexico.

- L. **“Flood plain”** means any area, which will be flooded by high water from a one hundred (100) year frequency storm.
- M. **“Ground water”** means interstitial water, which occurs in saturated earth material. It is capable of entering a well in sufficient amounts to be utilized as a water supply.
- N. **“Hazard to public health”** means the indicated presence in water or soil of chemical, biological or other agents under such conditions that they may adversely impact human health.
- O. **“Individual liquid water system”** means a liquid waste system, which receives a design flow of two thousand (2,000) or less gallons of liquid waste per day. It is subject to the Liquid Waste Disposal Regulations.
- P. **“Liquid waste”** means a domestic wastewater (sewage). It includes non-liquid-carried excreta.
- Q. **“Liquid waste disposal system”** means a component of a liquid waste system, which disposes of the discharge from a liquid waste treatment system.
- R. **“Liquid waste system”** means a system, which is designed, constructed, operated and maintained to receive, treat and dispose of liquid wastes. It generally consists of collection, treatment and disposal components.
- S. **“Liquid water treatment system”** means a component of a liquid waste system, which removes, reduces or alters the objectionable constituents of liquid waste.
- T. **“Net lot size”** means the size of a lot excluding any area dedicated by easement or use to provide vehicular passage to more than one or more than five (5) residential or commercial units on a single lot.
- U. **“Percolation rate”** means the rate of entry of water into the soil at a depth of the proposed soil absorption system.
- V. **“Potential source of contamination”** means any source, which could release substances resulting in degradation of a body of water and a hazard to public health.
- W. **“Private water supply system”** means a water supply system that has less than fifteen (15) service connections or serves less than twenty-five (25) individuals.
- X. **“Privy”** means a receptacle for non-liquid-carried excreta. It allows direct discharge of the soil.

- Y. **“Public water supply system”** means a water system, which as at least fifteen (15) service connections or serves least twenty-five (25) individuals. It is subject to the Drinking Water Regulations.
- Z. **“Representative water sample”** means a water sample, which can be expected to reflect the current quality of the water proposed for use within the subdivision. A water sample (and water quality analysis) more than three (3) years old is not considered representative.
- AA. **“Seasonal high ground water table”** means the highest level to which the upper surface of the ground water may be expected to rise within a one (1) year period.
- AB. **“Soil Survey”** means a national cooperative soil survey conducted by the USDA, National Resources Conservation Service in cooperation with the state agricultural experiment station and other federal and state agencies, or any other survey containing information of comparable quality and detail following the national standard for an Order 2 survey.
- AC. **“Solid waste”** means any garbage, rubbish, or other discarded material, which results from residential, commercial, institutional, industrial or recreational activities. Systems for the collection, transportation, and disposal of solid waste are subject to the Solid Waste Management Regulations.
- AD. **“Total design flow”** means the sum of liquid waste design flows from all liquid waste systems on a lot. The maximum total design flow (gallons per day) permitted on any lot is determined by multiplying the net lot size (acres) by five hundred (500).
- AE. **“Water supply source”** means a well, spring, infiltration gallery, surface water intake structure, or other source of water used to furnish water to a public or private water supply system.
- AF. **“Water supply system or water system”** means a system, which is designed, constructed, operated, and maintained to provide water suitable for domestic uses. It usually consists of source, treatment, transmission, storage, pumping and distribution facilities.
- AG. **“Watercourse”** means any river, creek, arroyo, draw, wash, or any other channel having definite banks and bed with visible evidence of at least an occasional flow of water.

2. WATER QUALITY DOCUMENTATION -- For a subdivider to document conformance with the water requirements of these guidelines and the New Mexico Subdivision Act, a water quality documentation package shall accompany the preliminary plat submittal.

A. The water quality documentation package shall:

1. State the subdivider's name and mailing address;
2. State the date the package was completed;
3. State the subdivider's proposal for meeting the water quality requirements of these guidelines;
4. Be accompanied by a copy of the subdivider's disclosure statement on water quality;
5. Be accompanied by the information listed in Subsections B, C, or D of this section as applicable to the water supply proposal; and,
6. Be accompanied by other relevant information as may be necessary for the determination of compliance with the water quality requirements of these guidelines.

B. If a new public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:

1. A water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, lead, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;
2. For areas where contamination of the proposed source water has been documented, a water quality analysis of a representative water sample for other water quality parameters listed in Section 3 of these guidelines as may be required.
3. The location and description of the source of water sampled for the water quality analysis;
4. An engineer's report and preliminary plans for the proposed public water supply system; and,
5. Maps identifying and showing the location of all potential sources of contamination and the flood plain of all watercourses and surface bodies of

water within one thousand (1000) feet of the proposed water supply system source.

- C. If a connection to and extension of an existing public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:
1. A water quality analysis of a representative water sample for alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;
 2. A state of availability of water service signed by an official of the existing public water supply system; and,
 3. An engineer's report and preliminary plans for the proposed water system.
- D. If private water supply systems are proposed, the following information shall be submitted as part of the water quality documentation package:
1. A water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, lead, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;
 2. For areas where contamination of the proposed source water has been documented, a water quality analysis of a representative water sample for other water quality parameters listed in Section 3 of these guidelines as may be required.
 3. The location and description of the source of water sampled for the water quality analysis;
 4. Preliminary plans for the private water supply systems if the system will serve more than one (1) connection; and,
 5. Maps identifying and showing the location of all potential sources of contamination and the flood plain of all watercourses and surface bodies of water within the subdivision and within five hundred (500) feet of the proposed subdivision boundaries.
- E. Documentation of approval for the construction or modification of a public water supply system from the New Mexico Environment Department will be required before final plat recordation.

3. WATER QUALITY REQUIREMENTS – Conformance with the water quality requirements of this section is required for preliminary plat approval.

- A. The level of a contaminant in water which is delivered to any user of a public or private water supply system shall not exceed the maximum contaminant level (MCL) for any of the contaminants listed in Table 3-1.
- B. The level of a contaminant in water which is delivered to any user of a public or private water supply system should not exceed the secondary maximum contaminant level (SMCL) for any of the contaminants listed in Table 3-2.
 - 1. If the level of any of the contaminants listed in Table 3-2 exceeds the SMCL, the subdivider must state in the disclosure statement on water quality the name of the contaminant exceeded; the contaminant level, the SMCL of the contaminant; the expected adverse effects of the contaminant for domestic water use; and, the recommended treatment method to reduce the contaminant level to or below the SMCL.
- C. A water supply source shall not be located at less than the setback distances shown in Table 3-3.
- D. The disclosure statement for the subdivision shall contain a statement describing the quality of water available for domestic use within the subdivision.

TABLE 3-1 – PRIMARY (HEALTH RELATED CONTAMINANT)

Contaminant	MCL	Contaminant	MCL
Antimony	0.006 mg/l	<i>Giardia lamblia</i>	TT
Arsonic	0.05 mg/l	<i>Legionelia</i>	TT
Asbestos	7 MFL	Standard plate count	TT
Barium	2 mg/l	Total coliforms	Absent
Beryllium	0.004 mg/l	Turbidity	PS
Cadmium	0.005	Viruses	TT
Chromium (total)	01.mg/l	Disinfection Expanded	
Cooper	1.3 mg/l	Contaminant	MCL
Cyanide	0.2 mg/l	Total trihalomethanes	0.10 mg/l
Fluoride	4.0 mg/l	Volanic Organic	
Lead	0.015 mg/l	Contaminant	MCL
Mercury (morganic)	0.002 mg/l	Benzene	0.005 mg/l
Nickel	0.1 mg/l	Carbon tetrachloride	0.005 mg/l
Nitrate (as N)	10 mg/l	Dibromochloropropane	0.0002 mg/l
Nitrite (as N)	1 mg/l	<i>o</i> -dichlorobenzene	0.6 mg/l
Nitrate+Nitric (both as N)	10 mg/l	<i>p</i> -dichlorobenzene	0.075 mg/l
Selenium	0.05 mg/l	1,2-dichloroethane	0.0005 mg/l
Thallium	0.002	1,1-dichloroethylene	0.007 mg/l
		<i>cis</i> -1,2-dichloroethylene	0.07 mg/l
Contaminant	MCL	<i>trans</i> -1,2-dichloroethylene	0.01 mg/l
Gross D particle activity	15pCi/l	Dichloromethane	0.005 mg/l
Radium-226 & -228	5 pCi/l	1,2-dichloropropane	0.005 mg/l
Stronium-90	8 pCi/l	Ethylbenzene	0.7 mg/l
Tritium	20000pCi/l	Ethylene dibromide	0.00005 mg/l

TABLE 3-1 – PRIMARY (HEALTH RELATED CONTAMINANT)

Contaminant	MCL	Contaminant	MCL
Monochlorobenzene	0.1 mg/l	<i>Di(2-ethylhexyl)phthalate</i>	0.006 mg/l
Styrene	0.1 mg/l	<i>Dinoseb</i>	0.007 mg/l
Tetrachloroethylene	0.005 mg/l	<i>Diquat</i>	0.02mg/l
Toluene	1 mg/l	<i>Endothall</i>	0.1 mg/l
1,2,4-trichlorobenzene	0.07 mg/l	<i>Endrin</i>	0.002 mg/l
1,1,1,-trichloroethane	0.2 mg/l	<i>Glyphosate</i>	0.7 mg/l
1,1,2-trichloroethane	0.005 mg/l	<i>Heptachlor</i>	0.0004 mg/l
trichloroethylene	0.005 mg/l	<i>Heptachlor epoxide</i>	0.0002 mg/l
Vinyl chloride	0.002 mg/l	<i>Hexachlorobenzene</i>	0.001 mg/l
Xylenes (total)	10 mg/l	<i>Hexachlorocyclopentadiene</i>	0.05 mg/l
		<i>Lindane</i>	0.0002 mg/l
Contaminant	MCL	<i>Methoxychlor</i>	0.04 mg/l
Alachlor	0.002 mg/l	<i>Oxamyl (Vydate)</i>	0.2 mg/l
Atrazine	0.003 mg/l	<i>Pentachlorophenol</i>	0.001 mg/l
Benzo[a]pyrene	0.0002 mg/l	<i>Picloran</i>	0.5 mg/l
Carbofuran	0.04 mg/l	<i>Polychlorinated biphenyls</i>	0.0005 mg/l
Chlorodane	0.002 mg/l	<i>Simazine</i>	0.004 mg/l
2,4-D	0.07 mg/l	<i>2,3,7,8-TCCD (Dioxin)</i>	3x10 mg/l
Dalapon	0.2 mg/l	<i>Toxapene</i>	0.003 mg/l
<i>Di(2-ethylhexyl)adipate</i>	0.4 mg/l	<i>2,4,5-TP</i>	0.05 mg/l

Notes to Table 3-1:

- (a) Million Fibers longer than 10 pm per liter.
- (b) Gross alpha particle activity including radium-226 but excluding radon and uranium.
- (c) Combined radium-226 and radium-228.
- (d) For systems using surface water.
- (e) Treatment Technique (filtration and disinfection) required.
- (f) Performance Standard 0.5 NTU to 1.0 NTU.

TABLE 3-2 – SECONDARY (ESTHETIC RELATED) CONTAMINANTS

Contaminant	SMCL	Contaminant	SMCL
Aluminum	0.05 to 0.2 mg/l	Manganese	0.05 mg/l
Chloride	250 mg/l	Odor	3 TON
Color	15 CU	pH	6.5 to 8.5
Copper	1.0 mg/l	Silver	0.1 mg/l
Corrosivity	Non-corrosive	Sodium	100 mg/l
Fluoride	2.0 mg/l	Sulfate	250 mg/l
Foaming Agents	0.5 mg/l	TDS	500 mg/l
Hardness	250 mg/l	Turbidity	5 NTU
Iron	0.3 mg/l	Zinc	5 mg/l

Notes to Table 3-1:

(a) Sodium concentration exceeding 20 mg/l must be noted in the disclosure statement.

TABLE 3-3 – SETBACK DISTANCES FOR WATER SUPPLY SOURCES

Potential Source of Contamination	Required Minimum Setback Distance (feet)	
	Public Water Supply System Source	Private Water Supply System Source
Water Right Sewers	50	25
Other Sewers	100	50
Community Liquid Waste Treatment System	300	150
Individual Liquid Waste Treatment System	100	50
Community Liquid Waste Disposal System	600	300
Individual Liquid Waste Disposal System	200	100
Flood Plain	Outside	Outside

4. LIQUID WASTE DISPOSAL DOCUMENTATION. – For a subdivider to document conformance with the liquid waste disposal requirements of these guidelines and the New Mexico Subdivision Act, a liquid waste disposal documentation package shall accompany the preliminary plat submittal.

A. The liquid waste disposal documentation package shall:

1. State the subdivider's name and mailing address;
2. State the date the package was completed;
3. State the subdivider's proposal for meeting the liquid waste disposal requirements of these guidelines;
4. Be accompanied by a copy of the subdivider's disclosure statement on liquid waste disposal;
5. Be accompanied by the information required in Subsections B,C, or D of this section as applicable to the subdivider's liquid waste disposal proposal; and
6. Be accompanied by other relevant information as may be necessary for determination of compliance with the liquid waste disposal requirements of these guidelines.

B. If the subdivider proposes a new community liquid waste system, the following information shall be submitted as part of the liquid waste disposal documentation package;

1. An engineer's report and preliminary plans for the proposed community liquid waste system;
2. Maps showing the location of all water supply sources and the flood plain of all watercourses and surface bodies of water within one thousand (1,000) feet of the proposed liquid waste treatment and liquid waste disposal site; and,
3. Documentation of the filing of a "Notice of Intent to Discharge" with the New Mexico Environment Department in accordance with the Water Quality Control Commission Regulations.

C. If the subdivider proposes a liquid waste system by connection to and extension of an existing community liquid waste system, the following information shall be submitted as part of the liquid waste disposal documentation package;

1. A statement of availability of liquid waste service signed by an official of the existing liquid waste system; and,

2. An engineer's report and preliminary plans for the proposed extension to the existing liquid waste system.
- D. If the subdivider proposes individual liquid waste systems, the following information shall be submitted as part of the liquid waste disposal documentation package:
1. A soils investigation report (soil survey, soil borings to a minimum depth of eight (8) feet, soil test results and analysis of the soil survey, soil boring, and soil tests) defining soil depth to bedrock, seasonal high water ground water table or other limiting soil layer, and percolation rate for the soils present within the proposed subdivision;
 2. Maps showing the location of all water supply sources and the flood plain of all watercourses and surface bodies of water within the proposed subdivision and within five hundred (500) feet of the proposed subdivision boundaries;
 3. A liquid waste system feasibility map, superimposed on the subdivision plat, delimiting the areas of suitable, limited, and prohibitive soil categories as described in Table 5-2; and,
 4. Preliminary plans for the individual liquid waste systems if a system will serve more than one (1) connection.
- E. Documentation of approval for the discharge from a community liquid waste system from the New Mexico Environment Department will be required before final plat recordation.

5. LIQUID WASTE DISPOSAL REQUIREMENTS – Conformance with the liquid waste disposal requirements of this section is required for preliminary plat approval.

A. Community liquid waste systems.

1. A community liquid waste system shall be permitted, designed, and constructed, by the time of first occupancy within the subdivision, to comply with the Water Quality Control Commission Regulations; and, operated, maintained, and expanded as necessary to insure that the system will comply with the Water Quality Control Commission Regulations.
2. The subdivider shall disclose and covenant that all lots within the subdivision must connect to the community liquid waste system at the time of occupancy.

B. Individual liquid waste systems.

1. Individual liquid waste systems shall be located, installed, operated, and maintained in a manner which will not cause a hazard to public health or degrade any body of water.
2. Individual liquid waste systems shall not be installed where an existing community liquid waste system is available for use within the subdivision; installed in subdivisions or on lots with sizes less than shown in Table 5-1; installed in prohibitive soils as shown in Table 5-2; installed at less than the setback distances shown in Table 5-3; or, privies (outhouses) or holding tanks if a water supply system is to be used.
3. The subdivider shall disclose and covenant that the lots cannot be further divided or subdivided to lot sizes smaller than those approved for the subdivision.
4. The minimum lot size for individual liquid waste systems shall comply with the appropriate county's subdivision requirements (at a minimum, compliance with the New Mexico Environment Department Liquid Waste Disposal Regulations).

C. The disclosure statement for the subdivision shall contain a description of the means of liquid waste disposal for the subdivision.

Table 5-2 – SOIL CATEGORY FOR INDIVIDUAL LIQUID WASTE SYSTEMS			
Soil Characteristic	Soil Category		
	Suitable	Limiting	Prohibitive
Percolation Rate (minutes per inch)	5-60	Less than 5 or 61-120	More than 120
Slope (percent)	0 – 8	9 – 15	More than 15
Soil Depth to Seasonal High Ground Water Table or Bedrock or Other Limiting Soil Layer (feet)	8 or more	4 – 8	Less than 4
Flood Plain	Outside	Outside	Within

Notes to Table 5-2:

- (a) A soil category is determined by the most limiting soil characteristic.
- (b) A suitable soil is a soil suited for the installation and functioning of a conventional disposal system. Conventional disposal systems or alternative disposal systems may be used in suitable soils.
- (c) A limiting soil is a soil unsuited for the installation and functioning of a conventional disposal system. Alternative disposal systems are used in limiting soils.
- (d) A prohibitive soil is a soil unsuited for the installation and functioning of either a conventional disposal system or an alternative disposal system. Individual liquid waste systems can not be used in prohibitive soils.

Table 5-3 – SETBACK DISTANCES FOR INDIVIDUAL LIQUID WASTE SYSTEMS		
Object	Required Minimum Setback Distance (fee)	
	Treatment Unit	Disposal System
Individual Water Supply System Source	50	100
Public Water Supply System Source	100	200
Edge of Watercourses Except Canals and Arroyos	50	100
Edge of Unlined Canals and Arroyos	15 + depth of channel	25 + depth of channel
Edge of Lined Canals	10 + depth of channel	10 + depth of channel
Public Lakes	50	100

Notes to Table 5-3:

- (a) Setback distance to artificially controlled lakes and reservoirs is measured from the closest projected shoreline at the maximum controlled water leave.

6. SOLID WASTE DISPOSAL DOCUMENTATION -- For a subdivider to document conformance with the solid waste disposal requirements of these guidelines and the New Mexico Subdivision Act, a solid waste disposal documentation package shall accompany the preliminary plat submittal.

- A. A solid waste documentation package shall:
 - 1. State the subdivider's name and mailing address;
 - 2. State the date the package was completed;
 - 3. State the subdivider's proposal for meeting the solid waste disposal requirements of these guidelines;
 - 4. Be accompanied by a copy of the subdivider's disclosure statement on solid waste disposal;
 - 5. Be accompanied by the information required in Subsections B or C of this section as applicable to the subdivider's solid waste collection and disposal proposal; and
 - 6. Be accompanied by other relevant information as may be necessary for determination of compliance with the solid waste disposal requirements of these guidelines.

- B. If the subdivider proposes solid waste collection by use of an existing solid waste collection service, the following information shall be submitted as part of the solid waste disposal documentation package:
 - 1. A statement of availability of solid waste collection and disposal service signed by an official of the solid waste collection service;
 - 2. A name, location and owner or operator of the solid waste disposal site used by the collection service.

- C. If the subdivider proposes solid waste disposal by use of an existing solid waste disposal site, the following information shall be submitted a part of the solid waste disposal documentation package;
 - 1. A statement of availability of solid waste disposal service signed by an official of the disposal site;
 - 2. The travel distance from the center of the subdivision to the disposal site.

7. SOLID WASTE DISPOSAL REQUIREMENTS – Conformance with the solid waste disposal requirements of this section is required for preliminary plat approval.

- A. At the time of first occupancy of the subdivision the subdivider shall provide for.
 - 1. Disposal of solid waste at an approval solid waste disposal facility, and,
 - 2. An approved solid waste collection system to collect and transport solid wastes to the disposal facility if the disposal facility is more than five (5) miles from the center of the subdivision.
- B. At the time when five hundred (500) lots of the subdivision are occupied, the subdivider shall provide for an approved solid waste collection system to collect and transport solid waste to the disposal facility.
- C. The solid waste disposal requirements of this Section may be waived for type four or type five subdivisions if the subdivider discloses and covenants that:
 - 1. The lots will not be divided or subdivided to less than ten (10) acres;
 - 2. The lots will be restricted to seasonal (part-time) occupancy;
 - 3. On-lot solid waste disposal will be limited to solid waste generated on the lot by the owner; and,
 - 4. On-lot solid waste disposal will be done in a manner that does not create a nuisance, create a hazard to public health, or degrade a body of water.
- D. The disclosure statement for the subdivision shall contain a description of the means of solid waste disposal for the subdivision.

APPENDIX B
WATER QUALITY

Prepared by the
State of New Mexico
Health and Environment Department
Environmental Improvement Division

DEFINITIONS

As used in these regulations, the following words and phrases are defined as indicated below:

1. **ALTERNATIVE DISPOSAL SYSTEM** - an individual liquid waste disposal system that is not a conventional disposal system. It generally is used where unsuitable soil conditions exist. Some system examples are deep trench, seepage pit, fill, sand filter, sand mound, evapo-transpiration, and land application.
2. **ARROYO** - a dry wash or draw which flows only occasionally in response to rainfall.
3. **BEDROCK** - Consolidated earth materials. It includes fractured and cavernous rock.
4. **BODY OF WATER** - all constrained water including water situated wholly or partly within or bordering the state, whether surface or subsurface, public or private.
5. **CANAL** - a ditch or channel that carries water for purposes other than domestic consumption.
6. **CLASS 1 WATER SUPPLY SYSTEM** - means a water supply system serving eleven or more parcels.
7. **CLASS II WATER SUPPLY SYSTEM** - means a water supply system serving ten or less parcels.
8. **COMMUNITY LIQUID WASTE SYSTEM** - a liquid waste system which receives a design flow of more than two thousand (2,000) gallons of liquid waste per day. It is subject to the New Mexico Water Quality Control Commission Regulations. A liquid waste system with eight (8) or more residential service connections usually will be a community liquid waste system.
9. **COMMUNITY WATER SUPPLY SYSTEM** - a water supply system with at least fifteen (15) service connections or servicing at least twenty-five(25) residents. It is subject to the New Mexico Environmental Improvement Board's Regulations Governing Water Supplies.
10. **CONVENTIONAL DISPOSAL SYSTEM** - an individual liquid waste disposal system which is a below grade soil absorption system whose excavated depth is not deeper than four (4) feet from the ground surface. It includes conventional absorption trenches and seepage beds.
11. **DEGRADE A BODY OF WATER** - to reduce the physical, chemical, biological or

radiological qualities of a body of water. It includes the release of material which could result in the exceeding of standards established in the Water Quality Standards for Interstate and Intrastate Streams in New Mexico, and in ground water that could be used as a domestic water supply source, standards established in the New Mexico Water Quality Control Commission Regulations and in the New Mexico Environmental Improvement Board's Regulations Governing Water Supplies.

12. **DESIGN FLOW** - the liquid waste flow rate for which a liquid waste system must be designed in order to assure acceptable performance. Design flow is generally governed by regulations, standards, codes, accepted references and the like.
13. **EDGE OF A WATERCOURSE, CANAL OR ARROYO** - that point of maximum curvature at the upper edge of a definite bank or, if no definite bank exists, the highest point where signs of seasonal high water flow exist.
14. **ENGINEER** - a person authorized to practice professional engineering in the State of New Mexico.
15. **ENGINEERING INTERPRETATION** - the evaluation of soil properties that might effect intended uses.
16. **FLOOD PLAIN** - any area, which will be flooded by high water from a one hundred (100) year frequency storm.
17. **FLOODWAY** - any area, which will be flooded by high water from a twenty-five (25) year frequency storm.
18. **GROUND WATER** - interstitial water, which occurs in, saturated earth material. It is capable of entering a well in sufficient amounts to be utilized as a water supply.
19. **HAZARD TO PUBLIC HEALTH** - the indicated presence in water or soil of physical, chemical, biological or radiological substances under such conditions that they may adversely impact human health.
20. **INDIVIDUAL LIQUID WASTE SYSTEM** - a liquid waste system which receives a design flow of two thousand (2,000) or less gallons of liquid waste per day. It is subject to the New Mexico Environmental Improvement Board's Liquid Waste Disposal Regulations. A liquid waste system with less than eight (8) residential service connections usually will be an individual liquid waste system.
21. **INDIVIDUAL WATER SUPPLY SYSTEM** - a water supply system with less than fifteen (15) service connections or servicing less than twenty-five (25) residents. A water supply system with less than eight (8) residential service connections usually will be an individual water supply system.

22. **LIQUID WASTE** - domestic wastewater (sewage). It includes non-liquid-carried excreta.
23. **LIQUID WASTE DISPOSAL SYSTEM** - a component of a liquid waste system, which disposes of the discharge from a liquid waste treatment system or unit.
24. **LIQUID WASTE SYSTEM** - a system which is designed, constructed, operated and maintained to receive, treat and dispose of liquid wastes, it generally includes a collection, treatment and disposal system.
25. **LIQUID WATER TREATMENT SYSTEM OR UNIT** - a component of a liquid waste system, which removes, reduces or alters the objectionable constituents of liquid waste.
26. **MODIFIED LANDFILL** - a landfill operated under the modified landfill requirements of the New Mexico Environmental Improvement Division.
27. **PERCOLATION RATE** - the rate of movement of water under hydrostatic pressure through the interstices of the soil. It is determined from a percolation test performed on the soil.
28. **POTENTIAL SOURCE OF CONTAMINATION** - any source which could release substances resulting in degradation of a body of water and a hazard to public health.
29. **PRIVY** - a receptacle for non-liquid-carried excreta.
30. **REPRESENTATIVE WATER SAMPLE** - a water sample which can be expected to reflect the quality of the water proposed for use within the subdivision. A water sample (and water quality analysis) more than three (3) years old is not considered representative.
31. **SAFE DISTANCE** - the distance between a potential source of contamination and a water supply system source that ensures no contamination will be drawn or will flow to the water supply system source when conditions of the contamination source, water withdrawal and water levels are the most adverse.
32. **SANITARY LANDFILL** - a landfill operated under the sanitary landfill requirements of the New Mexico Environmental Division.
33. **SEASONAL HIGH GROUND WATER TABLE** - the highest level to which the surface of the ground water may be expected to rise with a one (1) year period.
34. **SOIL SURVEY** - a national cooperative soil survey conducted by the United States

Department of Agriculture Soil Conservation Service in cooperation with the State Agricultural Experiment Station and other federal and state agencies, or any other survey containing information of comparable quality approved by the local Soil and Water Conservation District. The Soil Conservation Service soil survey has not been published as yet. The manuscript material is available from the Soil and Water Conservation Districts. The interpretations contained in the manuscript documents are primarily for agricultural purposes and the depth of the survey is only 5 feet. Any uses other than agricultural require "site-specific" soil surveys to obtain an accurate analysis. A site-specific" soil survey shall be performed at the subdivider's expense by a licensed soils engineer, a licensed civil engineer, a licensed architect, or a licensed geologist. It must identify specific soil types within the area to be subdivided. Either the S.C.S. soil survey or an approved comparable survey may be utilized as the foundation for the site-specific soil survey. It shall be done to a depth of at least 5 feet. Where an individual liquid waste disposal system is proposed, then the survey shall be done to a depth of at least 10 feet. It shall include an overlay of the various soil types, drawn to the scale of the subdivision, showing the location of each different soil type. The survey shall indicate soil test results for soil depth to bedrock, percolation rate of each soil, shrink-swell characteristics of each soil, soil depth to seasonal high water ground table, and slope of the land. The site-specific soil survey shall include engineering interpretations of each soil, including its limitations for its intended use. Limitations include, but are not limited to, surface and subsurface drainage problems, seasonally high water tables, flood hazard, and identity of soils subject to excessive erosion. Examples of intended uses include, but are not limited to, septic tank absorption fields, community water and liquid waste disposal systems, building site developments, and construction materials (roadfill, etc.). State and federal reviewing agencies, and/or County reviewing staff, and/or the County Manager may require additional information in a site-specific soil survey based on knowledge of existing, suspected, or potential problems.

35. **SOLID WASTE** - solid or semi-solid discarded material which results from residential, commercial, institutional, industrial or recreational activities. It does not include liquid wastes, septage or hazardous wastes. Systems for the collection, transportation and disposal of solid waste are subject to the New Mexico Environmental Improvement Division's Solid Waste Management Regulations.
36. **WATER SUPPLY SYSTEM** - a system which is designed, constructed, operated, and maintained to provide water for human consumption. It generally includes a water supply source, treatment, transmission, storage, pumping and distribution facilities.
37. **WATERCOURSE** - any river, creek, arroyo, canyon, draw, wash, or any other channel having definite banks and bed with visible evidence of the occasional flow of water.

Section 1 - Water Quality Plans

- A. Any person seeking approval of a subdivision plat and proposing the use of a water supply system must submit a water quality plan. The Commission may approve a water quality plan only if:
 - 1. The water quality proposals will conform with the requirements of the New Mexico Subdivision Act and these Regulations.
 - 2. The water proposed is of a suitable quality to conform with these Regulations.
- B. Water quality plans shall:
 - 1. State the subdivider's name and mailing address;
 - 2. State the date of the plan;
 - 3. Be accompanied by a copy of the subdivider's disclosure statement on water quality;
 - 4. Be accompanied by the information required in Subsections C, D, and E of this section as applicable to the subdivider's water supply proposal; and
 - 5. Contain such other relevant information as the Commission may reasonably require.
- C. If the subdivider proposes a new community water supply system, or proposes to supply water to the subdivision through a water supply system or proposes to utilize water rights permitted through Section 72-12-1 NMSA 1978, the following information shall be submitted as part of the water quality plan:
 - 1. A water quality analysis of a representative water sample for the primary inorganic (Table 3-1) and secondary (Table 3-2) water quality parameters shown in Section 3 of these Regulations;
 - 2. A water quality analysis of a representative water sample for such other water quality parameters as the Commission may require;
 - 3. Provide a detailed chain of custody report including, but no limited to, the name of the person or persons who collected the sample; time of collection; sample location; number of hours well was pumped before sample collection; field pH; conductivity; and temperature; types of sample containers used for collection; how sample was filtered and

preserved; the time, day, and year sample was received at the analytical laboratory; name of person who received the sample; the time, day, and year analyses were performed for each constituent; and, the methodology used by the analytical laboratory for analysis of each constituent monitored.

4. An engineer's report and preliminary plans for the proposed community water supply system; and
 5. Maps identifying and showing the location of all potential sources of contamination and the flood plain of all watercourses and surface bodies of water within one thousand (1,000) feet of the proposed water supply system source.
- D. If the subdivider proposes a water supply system by connection to and extension of an existing community water supply system, the following information shall be submitted as part of the water quality plan:
1. A water quality analysis of a representative water sample for the secondary (Table 3-2) water quality parameters shown in Section 3 of these Regulations;
 2. A water quality analysis of a representative water sample for such other water quality parameters that the Commission may require;
 3. A letter signed by an official of the existing water supply system indicating a commitment to supply water to the proposed subdivision and listing all conditions and restrictions applicable to the commitment; and
 4. An engineer's report and preliminary plans for the proposed extension to the existing water supply system.
- E. If the subdivider proposes individual water supply systems, the following information shall be submitted as part of the water quality plan:
1. A water quality analysis of a representative water sample for the primary inorganic (Table 3-1) and secondary (Table 3-2) water quality parameters shown in Section 3 of these Regulations
 2. A water quality analysis of a representative water sample for such other water quality parameters that the Commission may require;
 3. The location and description of the water source sampled for the water quality analysis;

4. Preliminary plans for the individual water supply system if the system will serve more than one (1) connection; and
5. Maps identifying and showing the location of all potential sources of contamination and the floodway of all water courses and surface bodies of water within the subdivision and within five hundred (500) feet of the proposed subdivision boundaries.
6. Description of agencies or laboratories conducting the testing and the procedures used by each.

Section 2 -- Water Quality Requirements

- A. The quality of water to be delivered from a water supply system shall not exceed the maximum contaminant level (MCL) for any one of the primary water quality parameters shown Table 3-1.
- B. Except as provided for below, the quality of water to be delivered from a water supply system shall not exceed the maximum contaminant level (MCL) for any one of the secondary water quality parameters shown in Table 3-2.
 1. The maximum contaminant levels for any of the secondary water quality parameters may be exceeded by approval of the Commission if:
 - a. Alternative water supply sources are not reasonably available;
 - b. Treatment of a community water supply to bring it within the maximum contaminant level is not feasible;
 - c. The public health will not be endangered by use of the water; and
 - d. The water will be acceptable for the proposed use.
 2. If a maximum contaminant level for any of the secondary water quality parameters is exceeded by approval of the Commission, the subdivider shall state in the disclosure statement on water quality:
 - a. The name of the parameter exceeded;
 - b. The contaminant level of the parameter;
 - c. The maximum contaminant level of the parameter; and

- d. The expected adverse effects of the parameter for the proposed water use.
- C. The water supply source for a water supply system shall be located a safe distance from any potential source of contamination as shown in Table 3-3.

TABLE 3-1

PRIMARY (HEALTH-RELATED) WATER QUALITY PARAMETERS

<u>PARAMETER</u>	<u>MCL</u>	
Inorganic		
Arsenic	0.05	mg/l
Barium	1	mg/l
Cadmium	0.010	mg/l
Chromium	0.05	mg/l
Fluoride	4.0	mg/l
Lead	0.05	mg/l
Mercury	0.002	mg/l
Nitrate (a)	10	mg/l
Selenium	0.01	mg/l
Silver	0.05	mg/l
Microbiological		
Coliform bacteria (b)	1/100	ml
Organic		
Endrin	0.0002	mg/l
Lindane	0.004	mg/l
Methoxychlor	0.1	mg/l
Toxaphene	0.005	mg/l
2,4-D	0.1	mg/l
2,4,5-TP Silvex	0.01	mg/l
Total trihalomethanes	0.10	mg/l

Physical

Turbidity (c)	1	T.U.
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Radiological

Combined radium-226 and radium-228	5	pCi/l
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Gross alpha particle activity (d)	15	pCi/l
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Tritium	20,000	pCi/l
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Strontium-90	8	pCi/l
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(a) As nitrogen

(b) Membrane filter technique

(c) Surface water supplies only

(d) Including radium-226 but excluding radon and uranium

TABLE 3-2

SECONDARY -(ESTHETIC/ECONOMIC-RELATED) WATER QUALITY PARAMETERS

PARAMETER	MCL	
Alkalinity	500	mg/l
Chloride	250	mg/l
Color	15	C.U.
Copper	1	mg/l
Corrosivity (a)	Non-corrosive	
Foaming Agents	0.5	mg/l
Fluoride (b)	2.0	mg/l
Hardness	250	mg/l
Iron	0.3	mg/l
Manganese	0.05	mg/l
Odor	3	T.O.N.
pH	6.5	to 8.5
Sodium (c)	200	mg/l
Sulfate	250	mg/l
Total Filterable Residue	500	mg/l
Turbidity	5	T.U.
Zinc	5	mg/l

(a) No analysis required

(b) If the fluoride concentration exceeds 2.0 mg/l, it must be noted in the disclosure statement on water quality

(c) If the sodium concentration exceeds 20 mg/l, it must be noted in the disclosure statement on water quality

(d) These constituents are those required for all subdivisions. Based on site-specific conditions, the County shall have the right to require testing for additional constituents.

TABLE 3-3

MINIMUM SAFE DISTANCES

POTENTIAL SOURCE OF CONTAMINATION	DISTANCE (FEET) FROM A POTENTIAL SOURCE OF CONTAMINATION	
	COMMUNITY WATER SUPPLY SYSTEM SOURCE	INDIVIDUAL WATER SUPPLY SYSTEM SOURCE
WATER TIGHT SEWERS	50*	25*
OTHER SEWERS	100*	50*
COMMUNITY LIQUID WASTE TREATMENT SYSTEM	300	150
INDIVIDUAL LIQUID WASTE TREATMENT SYSTEM	100*	50*
COMMUNITY LIQUID WASTE DISPOSAL SYSTEM	600	300
INDIVIDUAL LIQUID WASTE DISPOSAL SYSTEM	200*	100*
FLOODWAY	OUTSIDE*	OUTSIDE*
FLOOD PLAIN	OUTSIDE*	

Items marked with an asterisk are enforceable minimum safe distances. Local geological and hydrological conditions must be seriously considered in conjunction with all possible potential sources of contamination to determine the safest location for a water supply source. The minimum safe distances do not guarantee that a water supply source will not be contaminated by a potential source of contamination.

APPENDIX C

WATER SYSTEMS PROPOSALS

See Appendix B for Definitions

Section 1 - Class I Water System

- A. The requirements of the location of Class I water systems in order to protect water quality:
 - 1. Safe distance from any contaminant source.
 - 2. At least 200 feet from a liquid waste disposal site of less than 1,000 gallons per day.
 - 3. At least 300 feet from a liquid waste disposal site of more than 1,000 gallons per day.
 - 4. At least 150 feet from non-leak proof wastewater lines.
 - 5. At least 25 feet from wastewater lines which are leak proof.
 - 6. At least 100 feet from a perennial stream.
 - 7. At least 100 feet from other contamination sources such as landfills, stockyards, and animal feed lots.

- B. Requirements for Class II water systems:
 - 1. Safe distance from any contaminant source.
 - 2. At least 100 feet from a liquid waste disposal of less than 1,000 gallons per day.
 - 3. At least 200 feet from a liquid waste disposal of more than 1,000 gallons per day.
 - 4. At least 75 feet from non-leak proof wastewater lines.
 - 5. At least 25 feet from leak proof wastewater lines.
 - 6. At least 75 feet from perennial streams.
 - 7. At least 75 feet from other contamination sources, such as landfills, stockyards, and animal feed lots.

APPENDIX D
LIQUID WASTE

Prepared by the
State of New Mexico
Health and environment department
Environmental Improvement Division

Section 1 - Liquid Waste Management Plans - (See Appendix B for Definitions)

- A. Any person seeking approval of a subdivision plat must submit a liquid waste management plan. The Commission may approve a liquid waste management plan only if:
 - 1. The liquid waste disposal proposals will conform with the requirements of the New Mexico Subdivision Act and these Regulations; and
 - 2. The proposals for liquid waste disposal contained in the disclosure statement can be fulfilled.

- B. Liquid waste management plans shall:
 - 1. State the subdivider's name and mailing address;
 - 2. State the date of the plan;
 - 3. Be accompanied by a copy of the subdivider's disclosure statement on liquid waste disposal;
 - 4. Be accompanied by the information required in Subsections C, D, and E of this section as applicable to the subdivider's liquid waste disposal proposal;
 - 5. Be accompanied by a site-specific soil survey as defined on page 102; and
 - 6. Contain such other relevant information as the Commission may reasonably require.

- C. If the subdivider proposes a new community liquid waste system, the following information shall be submitted as part of the liquid waste management Plan:
 - 1. An engineer's report and preliminary plans for the proposed community liquid waste system; and
 - 2. Maps showing the location of all water supply system sources, the flood plain fall watercourses and surface bodies of water within one thousand (1,000) feet of the proposed liquid waste treatment and liquid waste disposal site.

- D. If the subdivider proposes a liquid waste system by connection to and extension of an existing community liquid waste system, the following information shall be submitted as part of the liquid waste management plan:
1. A letter signed by an official of the existing liquid waste system indicating a commitment to accept the liquid wastes of the proposed subdivision and listing all conditions and restrictions applicable to the commitment; and
 2. An engineer's report and preliminary plans for the proposed extension to the existing liquid waste system.
- E. If the subdivider proposes individual liquid waste systems, the following information shall be submitted as part of the liquid waste management plan:
1. A description of the individual liquid waste systems that are to be used by the occupants of the subdivision;
 2. Preliminary plans for the individual liquid waste system if the system will serve more than one (1) connection;
 3. A site-specific soil survey, and soil test results to the depth of at least 10 feet, identifying specific soil types within the area to be developed. It must include an overlay of the various soil types, drawn to the scale of the subdivision, showing the location of each different soil type, soil test results for soil, depth to bedrock, percolation rate of each soil, shrink-swell characteristics, soil depth to seasonal high water ground table, and slope of the land. The site-specific soil survey shall include engineering interpretations of each soil type, emphasizing limitations, which might exist for its intended use for septic tank absorption fields or any other type of individual liquid waste disposal. Other limitations described shall include, but not be limited to, surface and subsurface drainage problems, seasonally high water tables, flood hazard, and soils subject to excess erosion; and
 4. Maps showing the location of all water supply system sources and the floodway of all watercourses and surface bodies of water within the proposed subdivision and within five hundred (500) feet of the proposed subdivision boundaries.

Section 2 - Liquid Waste Disposal Requirements

- A. The following requirements apply to community liquid waste systems.

1. The community liquid waste system shall be:
 - a. Permitted, designed, and constructed by the time of first occupancy within the subdivision, to comply with all applicable New Mexico Water Quality Control Commission Regulations; and
 - b. Operated, maintained, and expanded throughout the growth in population within the subdivision in a manner to ensure that the system will comply with all applicable New Mexico Water Quality Control Commission Regulations.
 2. The subdivider shall provide adequate guarantees that all occupants within the subdivision will connect to the community liquid waste system at the time of occupancy.
- B. The following requirements apply to individual liquid waste systems.
1. Individual liquid waste systems shall be located, installed, operated, and maintained, in a manner, which will not cause a hazard to public health or degrade any body of water.
 2. Individual liquid waste systems shall not be:
 - a. Installed where an existing community liquid waste system is available for use within the subdivision;
 - b. Installed on lots which are less than the minimum lot sizes shown in Table 5-1;
 - c. Installed in prohibitive soils as shown in Table 5-2;
 - d. Installed at less than the minimum setback distances shown in Table 5-3; and
 - e. Privies (outhouses) or holding tanks if water supply system is to be used.
 3. The Commission may reduce the minimum lot size shown in Table 5-1 to 0.33 acre for an off-lot water supply system source and individual liquid waste system or to 0.75 acre for an on-lot water supply system source and individual liquid waste system provided that:

- a. The soils are in the suitable category as shown in Table 5-2;
 - b. The subdivider provides adequate guarantees that individual liquid waste systems with design flows exceeding 375 gallons per day will be prohibited; and
 - c. The maximum design flow limitation is clearly stated in the disclosure statement on restrictions and reservations of record and the disclosure statement on liquid waste disposal.
4. The subdivider shall provide adequate guarantees that the lots will not be further divided or subdivided to less than the applicable minimum lot size shown in Table 5-1.
 5. The subdivider shall state in the disclosure statement on liquid waste disposal the types of individual liquid waste systems that have been approved for use within the subdivision.

TABLE 5-1

MINIMUM LOT SIZE FOR INDIVIDUAL LIQUID WASTE SYSTEMS

<u>COMBINATION OF WATER SUPPLY AND LIQUID WASTE SYSTEM</u>	<u>DESIGN FLOW (GALLONS PER DAY)</u>	<u>LOT SIZE (ACRES)</u>
OFF-LOT WATER SUPPLY SOURCE AND INDIVIDUAL LIQUID WASTE SYSTEM	750 or less	0.50
	751 -- 1125	1.00
	1126 -- 1500	1.25
	1501 -- 2000	1.75
ON-LOT WATER SUPPLY SOURCE AND INDIVIDUAL LIQUID WASTE SYSTEM	750 or less	1.50
	751 -- 1125	2.00
	1125 -- 1500	2.75
	1501 -- 2000	3.50

-
- (a) Off-lot water supply source means that the water supply system source for the lot is not located with the lot (community or individual) or within one hundred (100) feet of the boundaries of the lot (individual).
 - (b) On-lot water supply source means that the water supply system source for the lot is located within the lot (community or individual) or within one hundred (100) feet of the boundaries of the lot (individual).
 - (c) For residential subdivisions other than rental mobile home parks, design flow is based on two (2) persons per bedroom for the first two (2) bedrooms and one(1) person per additional bedroom, and seventy-five (75) gallons per person per day for each residential unit connected to the individual liquid waste system.
 - (d) For rental mobile home parks, design flow is based on two hundred fifty (250) gallons per mobile home per day for each mobile home space connected to the individual liquid waste system.

TABLE 5-2

SOIL CATEGORY FOR INDIVIDUAL LIQUID WASTE SYSTEMS

SOIL CHARACTERISTIC	SOIL CATEGORY		
	SUITABLE	UNSUITABLE	PROHIBITIVE
PERCOLATION RATE (MINUTES PER INCH)	1 - 60	Less than 1 or 61 - 120	More than 120
SLOPE (PERCENT)	0 - 15	16 - 25	More than 25
SOIL DEPTH TO SEASONAL HIGH GROUND WATER TABLE OR BEDROCK (FEET)	8 or more	2 - 8	Less than 2
FLOODING POTENTIAL	Outside Floodway	Outside Floodway	Within Floodway

- (a) The soil category is determined by the most limiting soil characteristic for each soil type.
- (b) A suitable soil is a soil suited for the installation and functioning of a conventional disposal system. Conventional disposal systems or alternative disposal systems may be used in suitable soils.
- (c) An unsuitable soil is a soil unsuited for the installation and functioning of a conventional disposal system. Alternative disposal systems are used in unsuitable soils.
- (d) A prohibitive soil is a soil unsuited for the installation and functioning of either a conventional disposal system or an alternative disposal system. Individual liquid waste systems cannot be used in prohibitive soils.

TABLE 5-3

MINIMUM SETBACK DISTANCE FOR INDIVIDUAL LIQUID WASTE SYSTEMS

DISTANCE (FEET) BETWEEN OBJECT AND
INDIVIDUAL LIQUID WASTE SYSTEM COMPONENT

OBJECT	TREATMENT UNIT	DISPOSAL SYSTEM
INDIVIDUAL WATER SUPPLY		
SYSTEM SOURCE	50	100
PUBLIC WATER SUPPLY		
SYSTEM SOURCE	100	200
EDGE OF WATERCOURSES EXCEPT CANALS AND ARROYOS	50	100
EDGE OF UNLINED CANALS AND ARROYOS	15 + depth of channel	25 + depth of channel
EDGE OF LINED CANALS	10 + depth of channel	10 + depth of channel
PUBLIC	50	100

APPENDIX E

SOLID WASTE

Prepared by the
State of New Mexico
Health and Environment Department
Environmental Improvement Division

Section 1 - Solid Waste Management Plans (See Appendix B for Definitions)

NOTE: Solid Waste Plans must be coordinated with Rio Arriba County solid waste management facilities or existing EID-licensed facilities.

- A. Any person seeking approval of a subdivision plat must submit a solid waste management plan. The commission may approve a solid waste management plan only if:
 - 1. The solid waste disposal proposals will conform with the requirements of the New Mexico Subdivision Act and these Regulations; and
 - 2. The proposals for solid waste disposal contained in the disclosure statement can be fulfilled.

- B. Solid waste management plans shall:
 - 1. State the subdivider's name and mailing address;
 - 2. State the date of the plan;
 - 3. Be accompanied by a copy of the subdivider's disclosure statement on solid waste disposal;
 - 4. Be accompanied by the information required in Subsections C, D, E, and F of this section as applicable to the subdivider's solid waste collection and disposal proposal; and
 - 5. Contain such other relevant information as the Commission may reasonably require.

- C. If the subdivider proposes solid waste collection by use of an existing solid waste collection service, the following information shall be submitted as part of the solid waste management plan:
 - 1. A letter from an official of the solid waste collection service indicating that service is available to the subdivision;
 - 2. The frequency of collections;
 - 3. The estimated cost of the collection service to the users of the service; and

4. The name, location, and owner or operator of the solid waste disposal site used by the collection service.
- D. If the subdivider proposes solid waste collection by operating a collection service, the following information shall be submitted as part of the solid waste management plan:
1. A description of the operation of the collection service, the equipment to be used for collections and the number of individuals devoted to collections;
 2. The frequency of collections;
 3. The estimated cost of the collection service to the users of the service; and
 4. A letter from an official of the solid waste disposal site indicating that it is available for use by the collection service.
- E. If the subdivider proposes solid waste disposal by use of an existing solid waste disposal site, the following information shall be submitted as part of the solid waste management plan:
1. A letter from an official of the disposal site indicating that it is available for use by the occupants of the subdivision;
 2. The estimated cost to the occupants of the subdivision for use of the disposal site;
 3. The hours of operation of the disposal site; and
 4. The travel distance from the center of the subdivision to the disposal site.

Section 2 - Solid waste Disposal Requirements

- A. If the proposed subdivision is a Type II, Type III, Type IV of less than five hundred (500) lots or a type five subdivision, the subdivider shall provide for:
1. Disposal of solid waste at an ED-approved public or private modified landfill or sanitary landfill at the time of first occupancy of the subdivision; and

2. A solid waste collection system to collect and transport solid wastes to the disposal site at the time of first occupancy of the subdivision if the disposal site is more than five (5) miles from the center of the subdivision.
3. A modified landfill shall:
 - a. Be fenced to prevent entry by large animals;
 - b. Have a gate or cattle guard at the entrance;
 - c. Be provided with means to minimize blowing of solid waste;
 - d. Have trenches whose bottoms are a minimum of twenty feet above the ground water level for solid waste disposal;
 - e. Have separate trenches whose bottoms are a minimum of twenty feet above the ground water level for dead animal disposal with earth placed adjacent to the trenches for cover immediately following placement;
 - f. Prevent entry of runoff water into the trenches;
 - g. Have signs to indicate the location of the site, provide disposition instructions and state that fires are prohibited;
 - h. Be covered with a minimum of six inches of clean earth at least once each week during the period of April 1 through October 31, and at least once each two weeks during the period of November 1 through March 31; and
 - i. Have a final cover of at least two feet of clean earth over each completed trench graded to facilitate runoff without puddling or erosion.
4. A sanitary landfill shall:
 - a. Be operated utilizing the principles of sanitary engineering to confine the solid waste to the smallest practical area and to reduce it to the smallest practical volume;
 - b. Be covered with a six inch layer of earth at the conclusion of each day's operation or at more frequent intervals as may be necessary.

- c. Be provided with adequate means to prevent and extinguish fires;
 - d. Be operated to prevent blowing of waste and to provide for daily placement of blown waste into the fill;
 - e. Prevent entry of runoff water into the fill;
 - f. Be fenced to prevent entry by large animals;
 - g. Have a representative of the person who is operating the disposal facility present at all times when the fill is being operated;
 - h. Be operated to prevent scavenging;
 - i. Be located and operated so that it does not cause a public nuisance or create a hazard to public health or welfare;
 - j. Have a final cover of at least two feet of clean, compacted earth over each section of completed fill graded to facilitate runoff without puddling or erosion;
 - k. Have fills whose bottoms are a minimum of twenty feet above the ground water level;
 - l. Have signs to indicate the location of the site, provide disposition instructions and state that fires are prohibited; and
 - m. If resource recovery operations are allowed, all material not recovered shall be incorporated into the landfill by the end of the day.
- B. If a proposed subdivision is a Type IV of five hundred (500) or more lots or a Type I subdivision, the subdivider shall provide for:
- 1. Disposal of solid wastes at an ED-approved public or private modified landfill or sanitary landfill at the time of first occupancy of the subdivision (see Section 2.A, paragraphs 3 and 4 above).
 - 2. Disposal of solid wastes at a sanitary landfill when five hundred (500) lots are occupied;

3. A solid waste collection system to collect and transport solid wastes to the disposal site at the time of first occupancy of the subdivision if the disposal site is more than five (5) miles from the center of the subdivision; and
 4. A solid waste collection system to collect and transport solid wastes to the disposal site when five hundred (500) lots are occupied.
- C. The Commission may waive the solid waste disposal requirements of this Section for Type IV or Type V subdivisions provided the subdivider provides adequate guarantees that:
1. The lots will not be divided or subdivided to less than ten (10) acres;
 2. The lots are for seasonal (part-time) occupancy; and
 3. On-lot solid waste disposal of solid waste generated on the property by the property holder will be done in a manner that does not create a nuisance, create a hazard to public health, or degrade a body of water.

APPENDIX F

ROAD DEVELOPMENT PLAN & ROAD DESIGN STANDARDS

I. Road Development

- A. All roads within a subdivision shall be constructed only on a schedule approved by the Board of County Commissioners. In approving or disapproving a subdivider's road construction schedule, the Board of County Commissioners shall consider:
1. The proposed use of the subdivision;
 2. The period of time before the roads will receive substantial use;
 3. The period of time before construction of homes will commence on the portion of the subdivision serviced by the road;
 4. The County Regulations governing phased development; and
 5. The needs of prospective purchasers and lessees in viewing the land within the subdivision.
- B. All proposed roads must conform to minimum County safety standards, and these Land Subdivision Regulations.
- C. Where subdivision roads connect to State or Federal Highways, access points, penetration of right-off-way and design requirements shall be governed by appropriate state or federal regulations. There shall be no more than one intersection with a State Highway in a Type III and Type V Subdivision, and no more than two intersections with a State Highway in a Type II and Type IV Subdivision, unless additional intersections are permitted, in writing, by the State Highway Department or if required for fire protection purposes. The State Highway Department's written approval of additional intersections shall be submitted with the preliminary plat. The subdivider shall consult with State Highway Department concerning the appropriate number and location of intersections with State Highways in a Type I Subdivision before submittal of the preliminary plat, and written approval of the number and location of intersections shall be submitted with the preliminary plat.

- D. If the proposed subdivision is in a Department Wildfire Hazard Area, the roads must comply with the Wildfire Safety Guidelines and Standards for Subdivisions and Development and Wildfire Hazard Area Control Regulations developed by the Forestry Division of the New Mexico Natural Resources Department and adopted herein, attached hereto as Appendix M. This Regulation will not go into effect until the Board of County Commissioners, with the assistance of the Forestry Division, has identified and designated Wildfire Hazard Areas in Rio Arriba County by ordinance. The reviewing staff and/or County Manager shall submit subdivision applications for areas in Wildfire Hazard Areas to the Forestry Division for its review.

- E. The Board of County Commissioners shall not approve the grading or construction of roads unless and until the subdivider can reasonably demonstrate that the roads to be constructed will receive use and that the roads are required to provide access to parcels or improvements within twenty-four months from the date of construction of the road.

- F. It is unlawful for a subdivider to grade or otherwise commence construction of roads unless such construction conforms to the schedule of road development approved by the Board of County Commissioners.

II. Road Design Standards

All Sections

Fill Slopes:

0' - 2' Height	4:1
2' - 5' Height	4:1
Over 5' Height	2:1

Cut Slopes:

0' - 5' Depth	4:1
Over 5' Depth	2:1

Rock

Type A Roadway - Arterial Streets

For projected traffic in excess of 15,000 cars per day:

Paving Width	66'
Right-of-Way Width	86'
Subgrade	12" depth compacted to 90%
Base Course	6" crushed aggregate
Surfacing	3" hot mix

Type B Roadway - Collector Streets

For projected traffic of 5 to 15,000 cars per day:

Paving Width	44'
Right-of-Way Width	60'
Subgrade	6" depth compacted to 90%
Base Course	6" crushed aggregate
Surfacing	2" hot mix

Type C Roadway - Residential Streets - Urban Subdivision

Paving Width	32" with curb & gutter
Right-of-Way Width	50'
Subgrade	6" depth compacted to 90%
Base Course	4" crushed aggregate
Surfacing	2" hot mix

Type D Roadway - residential Street - Suburban Subdivision

Paving Width	24' or 32' with curb & gutter
Right-of-Way Width	50'
Subgrade	6" depth compacted to 90%
Base Course	4' crushed aggregate
Surfacing	Double Penetration

Type E Roadway - residential Street - Rural Subdivision

Paving Width	24' or 32'
Right-of-Way Width	50'
Subgrade	6" depth compacted to 90%
Base Course	4" crushed aggregate or 6" pit run gravel

Type A-1 Roadway - Design Speed 60 M.P.H.

Used when 500 to 1,099 lots are served:

Paving Width	44'
Right-of Way Width	60'
Subgrade	6" depth compacted to 90% max density
Base Course	6" crushed aggregate
Surfacing	2" hot mix

Type A-2 Roadway - Design Speed 60 M.P.H.

Used when 499 or fewer lots are served:

Paving Width	44'
Right-of-Way Width	60'
Subgrade	6"
Base Course	4" crushed aggregate
Surfacing	1-1/2" hot mix

III. Road Maintenance

- A. The subdivider shall remain responsible for continual road maintenance in the subdivision unless and until either the County accepts road maintenance responsibility or a Homeowner's Association is duly constituted as described in the disclosure statement to accept road maintenance responsibility. The County Commission Shall have sole authority to determine if maintenance is justified. No roads or streets shall be maintained until such time as the County Commission formally declares such roads or streets are eligible for County maintenance.
- B. Homeowners' Associations - A subdivider may shift responsibility for road maintenance to a Homeowners' Association if the subdivider has clearly stated in the Disclosure Statement and indicated on the final plat that purchasers of lots in the subdivision would be responsible for road maintenance and if road maintenance responsibilities are assessed on a per-lot basis and the subdivider remains responsible for paying road maintenance assessments on unsold lots.
- C. If the subdivider elects to provide road maintenance the County Commission will require a bond to ensure that maintenance is provided. The Commissioner shall determine an average annual cost of maintaining the roads and the bond shall be provided in 125% of that amount. The initial term of the bond shall be three years and shall be renewed at the end of each three-year period until such time as the County accepts the road for maintenance or a Homeowners' Association is formed to legally accept maintenance responsibility.

APPENDIX G
TERRAIN MANAGEMENT PLAN

Prepared by the
United States Soil Conservation Service
1987

Section 1. DEFINITIONS. As used in the Rio Arriba County Subdivision Ordinance.

- A. "Buffer strip" means the land:
 - 1. Adjoining a watercourse or drainage channel with a vertical bank of at least 45 degrees, and
 - 2. Extending perpendicularly from the vertical bank of the watercourse or drainage channel to a distance three times the depth of the watercourse or drainage channel measured from the bottom of the watercourse or drainage channel to the top of the highest bank.
- B. "Commission" means the Rio Arriba County Commission
- C. "Engineering interpretations" means the estimated soil properties that might effect intended uses.
- D. "Erosion" means soil movement due to wind or water.
- E. "Erosion control structure" means any man-made device preventing or controlling erosion.
- F. "Drainage channel" means any depression into which storm water flows along a defined course.
- G. "Flood fringe" means any area which will be flooded by high water from a 50-year frequency storm.
- H. "Flood plain" means any area which will be flooded by high water from a 100-year frequency storm.
- I. "Local district" means any soil and water conservation district within the county in which the proposed subdivision is located.
- J. "Parcel" means any area of land not dedicated for public or common use.
- K. "Plat" means a map, chart, survey, plan, or replat certified by a licensed registered land surveyor containing a description of the subdivided land with ties to permanent monuments.
- L. "Sediment" means soil or other surface material transported by wind or surface water as a product of erosion.

- M. "Soil survey" means a national cooperative soil survey conducted by the United States Department of Agriculture Soil Conservation Service in cooperation with the State Agriculture Experiment Station and other federal and state agencies or any other survey containing information of comparable quality approved by the local Soil and Water Conservation District. The Soil Conservation Service soil survey has not been published as yet. The manuscript material is available from the Soil and Water Conservation Districts. The interpretations contained in the manuscript documents are primarily for agricultural purposes and the depth of the survey is only 5 feet. Any uses other than agriculture must obtain "site-specific" surveys to obtain an accurate analysis. A site-specific soil survey shall be performed at the subdivider's expense by a licensed soils engineer, a licensed civil engineer, a licensed architect, or a licensed geologist. It must identify specific soil types within the area to be subdivided. Either the S.C.S. soil survey or an approved comparable survey may be utilized as the foundation for the site-specific soil survey. It shall be done to a depth of at least 5 feet. Where an individual liquid waste disposal system is proposed, then the survey shall be done to a depth of at least 10 feet. It shall include an overlay of the various soil types, drawn to the scale of the subdivision showing the location of each different soil type. The survey shall indicate soil test results for soil depth to bedrock, percolation rate of each soil, shrink-swell characteristics of each soil, soil depth to seasonal high water ground table, and slope of the land. The site-specific soil survey shall include engineering interpretations of each soil, including its limitations for its intended use. Limitations include, but are not limited to, surface and subsurface drainage problems, seasonally high water table, flood hazard, and identity of soils subject to excessive erosion. Examples of intended uses include, but are not limited to, septic tank absorption fields, community water and liquid waste disposal systems, building site developments, and construction materials (roadfill, etc.). State and federal reviewing agencies, and/or County reviewing staff, and/or the County Manager may require additional information in a site-specific soil survey based on knowledge of existing, suspected, or potential problems.
- N. "Terrain management plan" means the subdivider's proposal for the control of floods, drainage and erosion, and measures required for adapting proposed development to existing soil characteristics and topography. It shall also display any plans for retention or preservation of farmlands and wildlife habitat.
- O. "Water control structure" means any man-made device for containing or channeling water; and

- P. "Watercourse" means any river, creek, spring, stream, or any other like body having definite banks and evidencing the occasional flow of water.

Section 2. TERRAIN MANAGEMENT PLAN

- A. Any person seeking approval of a subdivision plat must submit a terrain management plan. No subdivision plat shall be approved unless the terrain management plan has been approved by the Commission. The Commission may approve a terrain management plan if it determines that the plan conforms with the requirements of the New Mexico Subdivision Act and the Rio Arriba County Subdivision Regulations.

- B. Terrain management plans for subdivision types-one, two, and four shall contain:

Type I - 500 plus lots any one of which is less than 10 acres in size.

Type II - 25-499 lots any one of which is less than 10 acres in size.

Type IV - 25 plus lots each of which is 10 acres or more in size.

1. Maps including the following information:

- (a) A vicinity map drawn to a scale of not less than 2,000 feet to one inch showing contours at the foot intervals, the relationship of the site to its general surroundings, and the location of all existing drainage channels, water and erosion control structures, water courses and water bodies within three miles of the subdivision.
- (b) A subdivision map drawn to a scale of not less than 200 feet to one inch showing:
- (1) The boundaries of the area to be subdivided;
 - (2) Contours at ten-foot intervals
 - (3) The existing contours with intervals of not more than two feet where the slope is less than 8% and not more than five feet where the slope is 8% or greater;
 - (4) An overlay showing the location of all proposed lots,

roads, bridges, water and erosion control structures, and utility easements in relation to the existing contours;

- (5) an overlay showing the finished contours of the subdivision after the subdivider's proposals have been implemented using contour intervals equal to or less than those on the existing contour map;
- (6) the location of all cuts and fills;
- (7) the location of all drainage channels, watercourses, water bodies, floodways, flood fringes and floodplains;
- (8) the location of all areas with major rock outcroppings, slopes over 8%, and wooded areas;
- (9) the location of all areas which the subdivider intends to revegetate, and
- (10) the location of all areas in which the subdivider intends to preserve vegetation;
- (11) the location of any identified wildlife habitat areas to be preserved;
- (12) the location of any farm lands to be preserved;
- (13) the location of any scenic vistas to be preserved.

(c) Designs and construction of erosion control structures; revegetation and stabilization plans shall comply with the District's standards and specifications for such measures.

- 2. A "site-specific" soil survey shall be performed at the subdivider's expense by a licensed soil engineer, a licensed civil engineer, a licensed architect, or a licensed geologist. It must identify specific soil types within the area to be subdivided. Either the S.C.S. soil survey or an approved comparable survey may be utilized as the foundation for the site-specific soil survey. It shall be done to a depth of at least 5 feet. Where an individual liquid waste disposal system is proposed, then the survey shall be done to a depth of at least 10 feet. It shall include an overlay of the various soil types, drawn to the scale of the subdivision showing the location of each different soil type. The survey shall indicate soil test results for soil depth to bedrock,

percolation rate of each soil, shrink-swell characteristics of each soil, soil depth to seasonal high water ground table, and slope of the land. The site-specific soil survey shall include engineering interpretations of each soil, including its limitation for its intended use. Limitations include, but are not limited to, surface and subsurface drainage problems, seasonally high water tables, flood hazard, and identity of soils subject to excessive erosion. Examples of intended uses include, but are not limited to, septic tank absorption fields, community water and liquid waste disposal systems, building site developments, and construction material (roadfill, etc.). State and federal reviewing agencies, and/or County reviewing staff, and/or the County Manager may require additional information in a site-specific soil survey based on knowledge of existing, suspected, or potential problems.

The subdivider shall certify that all lands to be developed are composed of soils suitable for the intended use.

3. A surface drainage proposal including:
 - (a) storm drainage computations showing the estimated runoff from the subdivision prior to and following completion of development;
 - (b) sufficient runoff information on the areas contributing runoff to the subdivision to show existing drainage patterns and drainage courses that may affect the subdivision or be affected by the subdivision; and
 - (c) all appropriate design details necessary to clearly explain the construction of all necessary water control structures.
4. A subsurface drainage description including:
 - (a) An overlay drawn to the scale of the subdivision map locating areas where the seasonal high water table is:
 - (1) Between four and six feet of ground surface; and
 - (2) All appropriate design details necessary to clearly explain the construction of all subsurface structures;
5. The type of utilities to be provided as well as a statement indicating whether or not the utilities are to be installed above ground or underground;

6. A general grading plan setting forth the means for stabilizing all cut and fill slopes;
 7. An estimated schedule of construction including:
 - (a) The start and finish of all clearing and grading operations;
 - (b) Duration of exposure of disturbed areas;
 - (c) Stabilization/revegetation date for disturbed areas;
 - (d) Installation date of storm drainage systems;
 - (e) Installation date for all roads;
 - (f) Paving date of roads and parking areas;
 - (g) Installation date of each utility to be provided; and
 - (h) Installation date for homes, recreation structures, and other community improvements.
 8. The legal description of the subdivision including the range, township and section within which the subdivision is located; and
 9. The number of parcels within the subdivision and the number of acres in the smallest parcel.
- C. Terrain management plans for subdivision types three and five shall contain:
- Type III -- Not more than 24 lots any one of which is less than 10 acres in size.
- Type V -- Not more than 24 lots each of which is 10 acres or more in size.
1. Maps including the following information:
 - (a) A vicinity map drawn to scale of not less than 2,000 feet to one inch showing contours at ten-foot intervals, the relationship of the site to its general surroundings, and the location of all drainage channels, water and erosion control structures, watercourses and water bodies within 1,000 feet of the subdivision.

- (b) A subdivision map drawn to scale of not less than 200 feet to one inch showing:
 - (1) The boundaries of the area to be subdivided;
 - (2) Contours at ten-foot intervals;
 - (3) A layout in simple sketch form showing the location of all proposed lots, roads, bridges, and water and erosion control structures;
 - (4) The location of all cuts and fills;
 - (5) The location of all drainage channels, watercourses, water bodies, floodways, flood fringes, and flood plains;
 - (6) The location of all areas, which the subdivider intends to revegetate or stabilize;
 - (7) The location of all areas in which the subdivider intends to preserve vegetation;
 - (8) The location of any identified wildlife habitat areas to be preserved;
 - (9) The location of any farmlands to be preserved;
 - (10) An overlay showing the finished contours of the subdivision after the subdivider's proposals have been implemented using contour intervals equal to or less than those on the existing contour map.
 - (c) Designs and construction of erosion control structures; revegetation and stabilization plans shall comply with District's standards and specifications for such measures.
- 2. A site-specific soil survey for the subdivision including an overlay of the various soil types drawn to the scale of the subdivision map showing the location of each different soil type;
 - 3. A surface drainage proposal including:
 - (a) Sufficient information on the areas contributing runoff to the

subdivision to show existing drainage patterns and drainage courses that may affect the subdivision or be affected by the subdivision; and

- (b) All appropriate design details necessary to clearly explain the construction of all necessary water control facilities.
4. A subsurface drainage description including:
- (a) An overlay drawn to the scale of the subdivision map locating areas where the seasonal high water table is:
 - (1) Between four (4) and twelve (12) feet of the ground surface; and
 - (2) Within four (4) feet of the ground surface.
 - (b) All appropriate design details necessary to clearly explain the construction of all subsurface structures.
5. A general grading plan setting forth the means for revegetating or stabilizing all cut and fill areas;
6. A general road development plan setting forth the schedule and extent of road development;
7. A plan for preservation of wildlife habitats, if applicable;
8. A plan for protection of scenic vistas;
9. The legal description of the subdivision including the range, township and section within which the subdivision is located; and
10. The number of parcels within the subdivision and the number of acres in the largest and smallest parcel.

Section 3. SOILS

Prior to plat approval, the subdivider shall prove to the Commission that all lands to be developed are composed of soils suitable for the intended use.

The soil survey has not been published as yet, but the manuscript material is available from the districts. The interpretations contained in the manuscript documents are

primarily for agricultural purposes and the depth of the survey is only 6 feet. Any uses other than agricultural must obtain "site-specific" surveys to obtain an accurate analysis.

- A. Type I, II, and IV Subdivisions shall have soil suitable for at least the following uses:

Type I - 500 plus lots any one of which is less than 10 acres in size.

Type II - 25-499 lots any one of which is less than 10 acres in size.

Type IV - 25 plus lots each of which is 10 acres or more in size.

1. Building foundation support;
2. Road fill;
3. Road location;
4. Underground utilities;
5. Water control structures; and
6. Erosion control structures.

- B. Types III and V Subdivisions shall have soil suitable for, but not limited to:

1. Building foundation support;
2. Road fill;
3. Road location; and
4. Sewage disposal.

- C. Soil not suitable or having a high degree of hazard for the intended use shall not be developed for the intended use unless the subdivider or purchaser can prove to the Commission that the inherent soil limitations may be overcome by engineering design.

- D. Soil suitability will be ascertained from soil survey engineering interpretations, which are available from survey performed by a licensed private consulting firm.

Section 4. GRADING

- A. All grading, filling, and clearing operations, including road development shall be designed to:
 - 1. Preserve, match, or blend with the natural contours of the land;
 - 2. Retain trees and other native vegetation, to stabilize hillsides, retain moisture, control and reduce erosion, runoff and preserve the natural scenic beauty;
 - 3. Minimize scars from cuts and fills;
 - 4. Reduce the amount of cuts and fills and to round off sharp angles at the top and tow and sides of all necessary cut and fill slopes;
 - 5. Prevent the deposit of sediment into flood plains, drainage channels, water courses and water bodies; and
 - 6. Be compatible with the soil survey engineering interpretations and the local district technical guide,

- B. The following discharges attributable to grading are prohibited whether the discharge is direct or indirect:
 - 1. Sediment and other organic or earthen materials discharged into a water course, water body, drainage channel, or flood plain; and
 - 2. Material placed in any position, which would make it susceptible to erosion and deposition into a watercourse, water body, drainage channel, or flood plain.

- C. Whenever the native ground cover is removed or disturbed, or whenever fill material is placed on the site, the exposed surface shall be treated to the extent necessary to eliminate dust arising from the exposed material.

- D. All grading and filling operation shall be accomplished in such a manner as to limit the amount of time during which the soil is in a disturbed, exposed and unprotected state.

- E. Vegetation removed during clearing operations shall be disposed of in manner approved by the Environmental Improvement Division.

- F. Earth removed during operations shall be disposed of in the manner and place approved by the Commission.
- G. The maximum cut or fill slope shall be determined on the basis of the risk of instability or soil irritability as shown by the soil survey.
- H. If the material of the slope is of such composition and character as to be unstable under the maximum moisture content anticipated, the commission shall require such measures as are necessary to ensure the stability of the slope. Such measures may include, but are not limited to, reduction of the slope angle and mechanical stabilization of the slope.
- I. Where mechanical stabilization or containment of the slope by other than the use of native plant materials is employed, the stabilization devices shall be at least partially screened by vegetation where practical.
- J. No organic material, such as vegetation or rubbish, frozen soil, or any other material not subject to proper compaction or otherwise not conducive to its stability shall be permitted in fills. No rock or similar irreducible material with a maximum diameter greater than eight inches shall be buried or placed in the top two feet of fills.
- K. Borrowing for fill is prohibited unless revegetation proposed for the borrow area is approved by the Commission.
- L. Each layer of material for fill to be used as construction site shall be compacted not less than 95% of maximum dried density.
- M. Proof shall be submitted to the Commission that fill slopes will not erode or slide.
- N. The operation of construction equipment shall be limited to the actual area to be graded according to the approved plans. Fording of watercourses with construction equipment is not permitted. Temporary bridges, culverts and other structures of adequate design and capacity shall be used wherever watercourse crossings are necessary.
- O. During construction, appropriate barriers around all native vegetation proposed for retention shall be required. No vehicles of any kind shall pass over areas to be left in their natural state according to the approved plat.

Section 5. FLOOD PLAN MANAGEMENT

- A. All subdivisions must comply with the Rio Arriba County Flood Damage Prevention Ordinance, No. 1988-2, attached hereto as Appendix H, the specific procedures set forth therein, and shall be planned and located to:
 - 1. Regulate floodplain development in such a manner as to lessen the damaging effects of floods;
 - 2. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazards; and
 - 3. Promote the development of private and public uses such as open space, greenbelt, recreation and wildlife habitat.
- B. Flood plains may not be used for:
 - 1. Construction of buildings for human habitation unless all useable floor space is constructed above the maximum probable flood level;
- C. Flood fringes may not be used for:
 - 1. Structures designed for human habitation;
 - 2. Structures with a potential for high flood damage; and;
 - 3. Permanent sheltering and restrictive confining of animals.
- D. No development may be undertaken within a floodway except as provided in Subsection A of this section.
- E. In approving a subdivider's plat, the commissioners may, as condition of approval, require fills, dikes, levies, or other diversion measures to protect the subdivision from floods.

Section 6. STORM DRAINAGE

- A. All subdivisions shall be planned, constructed, and maintained to:
 - 1. Protect and preserve existing natural drainage channels except where erosion and flood measures are approved by the Commission;
 - 2. Protect structures and other works from flood hazards;

3. Provide a system by which water within the subdivision will be removed without causing damage or harm to the natural environment, or to property or persons within the subdivision or in other areas;
 4. Assure that waters drained from the subdivision are substantially free of pollutants, including sedimentary materials, of any greater quantity than would occur in the absence of the subdivision; and
 5. Assure that waters are drained from the subdivision in such manner that they will not cause erosion outside of the subdivision to any greater extent than
- B. All storm drainage systems shall be constructed in accordance with:
1. Specifications of the local district technical guide; and
 2. Engineering interpretations of the soil survey.
- C. The Commission may require the design and construction of a drainage system that will ensure that the inlet flow line elevations and the capacity are such that it is capable, or may be extended as necessary, to serve adequately the entire drainage basin within which the subdivision is located when such basin is ultimately developed.
- D. The following legend shall appear on the face of the plat in each buffer strip:
- "This strip is reserved for the development of trees, other vegetation, or other recreation improvements by the subdivide or any subsequent owner."

Section 7 IMPLEMENTATION OF TERRAIN MANAGEMENT PROVISIONS

- A. Property owners shall maintain all permanent erosion control devices and plantings by restrictions placed on the face of all approve plats.

Section 8 ENFORCEMENT OF TERRAIN MANAGEMENT PROVISIONS

- A. Violations and/or noncompliance with the Rio Arriba County Subdivision Ordinance; New Mexico Subdivision Act; and the Rio Arriba Ordinance of 1982 shall result in forfeiture of Security, performance bond, and immediate cessation of all development activities and sales.

- B. The Commission and/or its agent (co-manager) in cooperation with the New Mexico Attorney General's Office shall exercise enforcement procedures immediately, as soon as knowledge of violations or noncompliance are evidenced due to inspection of the subdivision, either during or after development.

APPENDIX H

RIO ARRIBA COUNTY
FLOOD CONTROL ORDINANCE
NO. 1982-1

Revised 1988-2

ORDINANCE NO. 1988-02

Revised as of October 1, 1988

FLOOD DAMAGE PREVENTION ORDINANCE

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FLOOD DAMAGE PREVENTION

ARTICLE 1

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A STATUTORY AUTHORIZATION

The Legislature of the State of New Mexico has in Section 4-37-1 NMSA 1978 delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the County Commission of Rio Arriba County, New Mexico, does ordain as follows:

SECTION B FINDINGS OF FACT

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

- (b) (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 occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed 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:

- (c) (1) Protect human life and health;

- (c) (2) Minimize expenditure of public money for costly flood control projects;

- (c) (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (c) (4) Minimize prolonged business interruptions;

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

- (c) (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
- (c) (7) Insure that potential buyers are notified that property is in a flood area.
- (c) (8) Promote the development of private and public uses such as open space, greenbelt, recreation and wildlife habitat.

SECTION D METHODS OF REDUCING FLOOD LOSSES

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

- (d) (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;
- (d) (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (d) (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwater;
- (d) (4) Control filling, grading, dredging and other development which may increase flood damage;
- (d) (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (d) (6) Provide a system by which water within the subdivision will be removed without causing damage or harm to the natural environment, or to property or persons within the subdivision or in other areas;

Assure that waters drained from the subdivision are substantially free of pollutants, including sedimentary material, of any greater quantity than would occur in the absence of the subdivision, and assure that waters are drained from the subdivision in such manner that they will not cause erosion outside of the subdivision.

SECTION E FLOOD PLAINS MAY NOT BE USED FOR:

- (e) (1) Construction of buildings for human habitation unless all useable floor space is constructed above the maximum probable flood level;

SECTION F FLOOD FRINGES MAY NOT BE USED FOR:

- (f) (1) Structures designed for human habitation;
- (f) (2) Structures with a potential for high flood damage; and
- (f) (3) Permanent sheltering and restrictive confining of animals.

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 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.

APPEAL - means a request for a review of the Flood Plain Administrator's interpretation of any provision of this Ordinance or a request for variance.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO 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 flood plain 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, A1-99, VO, VI-30, VE or V.

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

BASEMENT - means any area of the building having its floor subgrade (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.

ELEVATED BUILDING - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3 (e) (5) of the National Flood Insurance Program Regulations.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commences 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 inland or tidal 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 PROOFING - means any combination of structural and nonstructural 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.

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 as 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.

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.

HABITABLE FLOOR - means any floor usable for the following purposes; which include working, sleeping, eating, cooking or recreation, or combination thereof. A floor used to storage purposes only is not a "habitable floor".

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

HISTORIC STRUCTURE - means any structure that is:

- (a) 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;
- (b) 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;
- (c) 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
- (d) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in state 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 of vehicles, building assess 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. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MEAN SEA LEVEL - 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 flood plain management purposes, structures for which the "start of construction: commenced on or after the effective date of a flood plain management regulation adopted by a community.

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.

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, 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 manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE - 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 repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 % of the market value of the structure either,

(1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

VARIANCE - is a grant of relief to a person from the requirements 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 community's flood plain 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) (10), (d) (3), (e) (2), (e) (4), or (e) (5) is presumed to be in violation until such time as that documentation is provided.

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

ARTICLE 3

GENERAL PROVISIONS

SECTION A LANDS TO WHICH THIS ORDINANCE APPLIES

The Ordinance shall apply to all areas of special flood hazard with the jurisdiction of Rio Arriba County.

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 a scientific and engineering report entitled, "The Flood Insurance Study for Rio Arriba County", dated November 9, 1987, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM 350049 and FBFM) and any revisions thereto are hereby adopted by reference and declared to be apart of the Ordinance.

SECTION C ESTABLISHMENT OF DEVELOPMENT PERMIT

A 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 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 thereunder.

ARTICLE 4

ADMINISTRATION

SECTION A DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

PATRICIO GARCIA is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulation) pertaining to flood plain 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 proposed building site will be reasonable 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 State Engineer's office, 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.

SECTION C. PERMIT PROCEDURES

- (1) Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in delicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - 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 flood-proofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure shall meet the flood-proofing 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 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 flood waters 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;
- j. The relationship of the proposed use to the comprehensive plan for that area.

SECTION D. VARIANCE PROCEDURES

- (1) The Appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of the Ordinance.
- (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 the 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 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) 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 the 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 ordinance.
 - 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.
- (10) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of 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.

SECTION E. PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with terms of this Ordinance and other applicable regulation. 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 \$1,000.00 or imprisoned for not more than 30 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 County of Rio Arriba from taking such other lawful action as is necessary to prevent or remedy any violation.

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 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 effect 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 with the components during conditions of flooding.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water 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 water; 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 (4), 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 the subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.
- (3) Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that 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 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.
 - b. The bottom of all openings shall be no higher than one 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, shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and Local anchoring requirements for resisting wind forces.
 - b. All manufactured homes shall be in compliance with Article 5, Section B (1).
 - c. Require that all manufactured homes to be placed or substantially improved within Zones A1-30, AH on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above

the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with provision of Section B (4) of this Article.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

- (1) All subdivision proposals including 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 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 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 manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All subdivision proposals including manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located 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 base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply;

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- (2) All new construction and substantial improvements of nonresidential structures;
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified, or;
 - (ii) together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially

impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

- (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 (1) a., 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.

APPENDIX I

DISCLOSURE STATEMENT

FOR SUBDIVISIONS CONTAINING 25 OR MORE LOTS OR PARCELS

NAME OF SUBDIVISION - UNIT OF SUBDIVISION
ADDRESS OF SUBDIVISION

PLEASE READ THIS DISCLOSURE STATEMENT
BEFORE YOU
SIGN ANY DOCUMENTS OR AGREE TO ANYTHING

DISCLOSURE STATEMENT

This disclosure statement is intended to provide you with enough information to permit you to make an informed decision on the purchase or lease of property described in this statement. You should read carefully all of the information contained in this statement before you decide to buy or lease the described property. You should be aware of the fact that various state agencies may have issued opinions on both the subdivision proposal and what is said in this disclosure statement about the proposal. These opinions, when required to be issued, whether favorable or unfavorable, are contained in this disclosure statement and should be read carefully.

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can satisfy what he has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. Further, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

The Board of County Commissioners asks that you pay particular attention to processes for road maintenance. Requirements to render roads eligible for County maintenance are very stringent. County maintenance may not be forthcoming for a long period of time, if ever.

Finally, the Board of county Commissioners recommends that you see the property before buying or leasing it. However, if you do not see the property prior to purchasing or leasing it, you have six months from the time of purchase or lease to inspect the property. Upon inspecting the property, you have three days from the date of inspection to rescind the transaction and receive all of you money back from the subdivider. You must give the subdivider notice of your intent to rescind within three days of your inspection of the property.

I hereby certify the I received this disclosure statement prior to my (purchase) (lease) of Lot Description in _____ Subdivision and that I received its contents prior to signing documents of (sale) (lease).

Name of Lot (Purchaser) (Lessor)

ALL SUBDIVISIONS CONTAINING 25 OR MORE PARCELS OF LAND MUST
COMPLETE EACH ITEM SET FORTH IN PARENTHESIS BELOW

1. NAME OR SUBDIVISION

(name of subdivision)

2. NAME AND ADDRESS OF SUBDIVIDER

(name)

(address)

(telephone number)

3. NAME AND ADDRESS OF PERSON IN CHARGE OF SALES OR LEASING IN
NEW MEXICO

(name)

(address)

(telephone number)

4. TOTAL SIZE OF SUBDIVISION BOTH PRESENT AND ANTICIPATED (NMSA
47-6-17 (B) (3))

Preset

Anticipated

(number of parcels)

(number of parcels)

(number of acres in
subdivision)

(number of acres in
subdivision)

5. SIZE OF LARGEST PARCEL OFFERED FOR SALE, LEASE, OR OTHER
CONVEYANCE WITHIN THE SUBDIVISION

(size of largest parcel in acres)

6. SIZE OF SMALLEST PARCEL OFFERED FOR SALE OR LEASE WITHIN THE
SUBDIVISION

(size of smallest parcel in acres)

7. PROPOSED RANGE OF SELLING OR LEASING PRICES

(\$ _____ = lowest amount) _____ (size of parcel sold or leased)

(\$ _____ = highest amount) _____ (size of parcel sold or leased)

8. FINANCING TERMS

_____ (interest)

_____ (time price differential)

_____ (amount paid as a discount)

_____ (service charges)

_____ (premium for credit life or other insurance if it is a condition for giving credit)

_____ (closing costs)

_____ (any other information required by the Truth in Lending Act if not set forth above)

9. NAME AND address OF PERSON WHO IS RECORDED AS HAVING LEGAL AND EQUITABLE TITLE

_____ (name of person who is recorded as having legal title)

_____ (address)

10. NAME AND address OF PERSON HAVING EQUITABLE TITLE

_____ (name of persons recorded as having equitable title)

_____ (address)

NOTE: IF ANY OF THE PERSONS NAMED ABOVE IS A CORPORATION, PLEASE SET OUT HERE THE NAME AND ADDRESSES OF ALL OFFICERS IN THAT CORPORATION

11. STATEMENT AND CONDITION OF TITLE

Include here at least the following information where applicable:

(number of mortgages)

(name of each mortgage)

(balance owing on each mortgage)

(summary of the release provisions in each mortgage)

(number of all real estate contracts on the subdivided land for which the subdivider is making payments as a purchaser)

(name of each person holding a real estate contract as owner of the subdivided land for which the subdivider is making payments as a purchaser)

(balance owing on each real estate contract)

(summary of the release provisions in each real estate contract)

(statement of any other encumbrances on the land)

(statement of any other conditions relevant to the state of the title)

(statement of whether lot purchaser will be protected if subdivider defaults on his obligations, and property is foreclosed or forfeited)

(statement of means of protection to lot purchaser)

12. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD SUBJECTING THE SUBDIVIDED LAND TO ANY CONDITIONS AFFECTING ITS USE OR OCCUPANCY (NMSA 47-6-17(8))

(include here all deed and plat restrictions affecting the subdivided land)

13. ESCROW AGENT

(name)

(address)

(statement about whether or not the subdivider has any interest or financial ties with the escrow agent)

14. AVAILABILITY AND COST OF UTILITIES

<u>(name of entity providing phone service, if available)</u>	<u>(estimated cost)</u>
<u>(name of entity providing electrical service, if available)</u>	<u>(estimated cost)</u>
<u>(name of entity providing gas service, if available)</u>	<u>(estimated cost)</u>
<u>(name of entity providing water service, if available)</u>	<u>(estimated cost)</u>

15. INSTALLATION OF UTILITIES

Include here the date each utility will be available for use by the owner if the subdivider is providing for utilities.

<u>(water)</u>	<u>(date)</u>
<u>(phone)</u>	<u>(date)</u>
<u>(electricity)</u>	<u>(date)</u>
<u>(gas)</u>	<u>(date)</u>
<u>(liquid waste disposal)</u>	<u>(date)</u>
<u>(solid waste disposal)</u>	<u>(date)</u>

16. UTILITY LOCATION

(If all utilities are to be provided to each parcel in the subdivision, please make this statement here.)

(If utilities are to be provided, but not for all parcels within the subdivision, please enumerate those parcels which will not be provided with a particular utility.)

(State here if each of the utilities to be provided will be located above or underground.)

17. WATER USE

Include here whether or not there will be water for domestic use, commercial use or recreational use and include any limitation, physical or legal, anticipated for each use indicated. e.g. leased water rights may limit the amount and duration of water availability.

(domestic use)	(limit, if any)	(indicate whether the subdivider or owner will provide the water)
(commercial use)	(limit, if any)	(" " ")
(recreational use)	(limit, if any)	(" " ")

18. AMOUNT OF WATER

If the subdivider is to provide water for any use, he shall provide the following information:

(minimum daily quantity of water to be provided for each parcel and for each proposed use)

(the date on which water will be made available to each parcel and for each proposed use)

(copy of all legal documents granting the leased water right, the time period, cost, and amount of water available under the said lease)

19. WATER DELIVERY

(describe the means of water delivery within the subdivision)

If the water will be supplied by a public utility or a private water company already in existence, there must be documents attached, signed by an authorized representative of that entity, confirming that it will service the subdivision.

20. WATER SYSTEM EXTENSION

(state what the prospective owner will be required to pay for the extension of water to his parcel if he wants water prior to the date scheduled by the subdivider)

21. LIFE EXPECTANCY OF THE WATER SUPPLY

Include the life expectancy of each source of water supply under full development of the subdivision.

_____ (source) _____ (life expectancy)

22. *WELLS NOTE: PROSPECTIVE OWNERS MUST PROVIDE THEIR OWN WELLS.

_____ (average, maximum and minimum depth to water in the subdivision if water is available only from subterranean sources)

_____ (recommended total depth of well)

_____ (estimated yield in gallons per minute of wells completed to recommended total depths)

_____ (recommended pump settings and size)

_____ (lithological characteristics of formations through which well is to be completed)

_____ (name and address of organization providing subdivider with hydrological and geohydrological data)

_____ (estimated cost of a well completed to the estimated depth and equipped for production)

23. *SURFACE WATER

_____ (state the source and yield of the surface water supply)

24. STATE ENGINEER'S OPINION ON WATER

Include here the approved summary of the opinion received by the Board of County Commissioners from the State Engineer on:

_____ (whether or not the subdivider can satisfy the proposals contained in this disclosure statement concerning water - except water quality)

_____ (whether or not the subdivider is conforming with the county's regulations on water - except water quality)

*Not applicable if subdivider is required or intends to provide water for domestic use.

25. WATER QUALITY

(describe any quality which would make the water unsuitable for use within the subdivision)

(state each maximum allowable water quality parameter that has been exceeded with commission approval and the name of the element, compound, or standard that has exceeded that parameter)

26. ENVIRONMENTAL IMPROVEMENT DIVISION'S OPINION OF WATER QUALITY

Include here the approved summary of the opinion received by the Board of County Commissioners from the Environmental Improvement Division on:

(whether or not the subdivider can satisfy the water quality proposals made in this disclosure statement)

(whether or not the subdivider is conforming with the county's regulation on water quality)

27. LIQUID WASTE DISPOSAL

(describe the precise type or method of liquid waste disposal system that is proposed and that has been approved by the commission for use within the subdivision)

If liquid waste disposal will be supplied by a public utility or a private sewer company already in existence, there must be documents attached, signed by an authorized representative of that entity, confirming that it will service the subdivision.

NOTE: NO OTHER LIQUID WASTE DISPOSAL SYSTEM MAY BE USED IN A SUBDIVISION OTHER THAN THE SYSTEM APPROVED BY THE BOARD OF COUNTY COMMISSIONER.

28. ENVIRONMENTAL IMPROVEMENT DIVISION'S OPINION OF LIQUID WASTE DISPOSAL

Include here the approved summary of the opinion received by the Board of County Commissioners from the Environmental Improvement Division on:

(whether or not the subdivider can satisfy the liquid waste disposal proposals made in this disclosure statement)

(whether or not the subdivider is conforming with the county's regulations on liquid waste disposal)

29. SOLID WASTE DISPOSAL

(describe the means of solid waste disposal that is proposed for use within the subdivision)

30. ENVIRONMENTAL IMPROVEMENT DIVISION'S OPINION ON SOLID WASTE DISPOSAL

Include here the approved summary of the opinion received by the Board of County Commissioners from the Environmental Improvement Division on:

(whether or not the subdivider can satisfy the solid waste disposal proposals made in this disclosure statement)

If the subdivider intends to contract with a private disposal service, there must be a written confirmation of this service by the contractor attached.

31. TERRAIN MANAGEMENT

(describe the suitability of the soils in the subdivision for residential use whether permanent or seasonal)

(give the location of all lots within floodways, flood fringes, and flood plains)

(give the location of all lots located on slopes in excess of 8%)

(describe the subsurface drainage for all lots)

(describe the surface drainage for all lots)

(describe the storm drainage systems including the completion date of any required to be constructed)

32. SOIL AND WATER CONSERVATION DISTRICT'S OPINION ON TERRAIN MANAGEMENT

Include here the approved summary of the opinion received by the Board of County Commissioners from the Soil and Water Conservation District on:

(whether or not the subdivider can satisfy the terrain management proposals made in this disclosure statement)

(whether or not the subdivider is conforming with the county's regulations on terrain management)

33. SUBDIVISION ACCESS

(name of town nearest subdivision)

(distance from town to subdivision)

(name of highway or state road over which distance is computed)

(If access to subdivision is available by conventional vehicle, please state that fact here. If it is not, please state that fact.)

(If property is ordinarily accessible in all seasons and under all weather conditions, please state so. If it is not, please state that fact also)

(describe the width and type of surfacing of all roads)

(give the date on which all roads will be completed)

(state that application must be made to the county for acceptance for maintenance, and that the county may never accept responsibility for maintaining the roads)

(state whether the roads within the subdivision have been accepted for maintenance by the county)

(state the date on which all roads will be surfaced)

(state responsibility for road maintenance)

34. STATE HIGHWAY DEPARTMENT'S OPINION ON ACCESS

Include here the approved summary of the opinion received by the Board of County Commissioners from the State Highway Department on:

(whether or not the subdivider can satisfy the access proposals made in this disclosure statement)

(whether or not the subdivider is conforming with the county's regulations on access)

35. DEVELOPMENT

Include here all homes, recreation structures, and other community improvements to be provided by the subdivider in the subdivision and not previously mentioned in this disclosure statement. Give the date on which these items will be completed.

_____ (improvement) _____ (estimated date of completion)

36. MAINTENANCE

_____ (state the owner's maintenance and construction responsibilities)

_____ (state the subdivider's maintenance and construction responsibilities)

(Clearly delineate responsibility for maintenance of each improvement on the property, and if a homeowners association is being organized by the subdivider for this purpose, this should be disclosed)

37. ADVERSE CONDITIONS

(state any activities or conditions adjacent to or nearby the subdivision such as feedlots, cement plants, and the like, which would subject the subdivided land to any unusual conditions affecting its use or occupancy)

38. RECREATIONAL FACILITIES

_____ (describe all recreational facilities, actual and proposed, in the subdivision)

39. FIRE PROTECTION

_____ (distance from subdivision)

_____ (route over which distance is computed)

_____ (indicate whether the fire department is staffed by volunteers or a full-time staff)

40. POLICE PROTECTION

Include here the various police units that would patrol the subdivision:

_____ (sheriff's department, if applicable)

_____ (municipal police, if applicable)

_____ (state police, if applicable)

41. PUBLIC SCHOOLS

_____ (name of nearest schools)

_____ (distance of nearest elementary school and route over which distance is computed)

_____ (distance of nearest secondary school and route over which distance is computed)

42. HOSPITALS

_____ (name of nearest hospital)

_____ (distance of nearest hospital and route over which distance is computed)

_____ (number of beds in nearest hospital)

43. SHOPPING FACILITIES

_____ (distance of nearest shopping facilities and route over which distance is computed)

_____ (number of stores in the nearest shopping facility)

44. PUBLIC TRANSPORTATION

Include here whether the subdivision is served on a regular basis by:

_____ (bus)

_____ (plane)

_____ (other means of transportation)

45. COMPLETION DATES

_____ (state here the projected dates upon which any of the items mentioned in #38 through #44 above will be available if they are not yet available)

46. INCORPORATION INTO DOCUMENT OF (SALE) (LEASE)

This Disclosure Statement is hereby incorporated into the document of (sale) (lease) for

Lot Description

Subdivider/Seller/Lessor

Lot Purchaser/Lessee

APPENDIX J

DISCLOSURE STATEMENT

FOR SUBDIVISIONS CONTAINING 6 TO 24 LOTS OR PARCELS

NAME OF SUBDIVISION - UNIT OF SUBDIVISION
ADDRESS OF SUBDIVISION

PLEASE READ THIS DISCLOSURE STATEMENT
BEFORE YOU
SIGN ANY DOCUMENTS OR AGREE TO ANYTHING

DISCLOSURE STATEMENT
NMSA 47-6-17 (C)

This disclosure statement is intended to provide you with enough Information to permit you to make an informed decision on the purchase or lease of property described in this statement. You should read carefully all of the information contained in this statement before you decide to buy or lease the described property. You should be aware of the fact that various state agencies may have issued opinions on both the subdivision proposal and what is said in this disclosure statement about the proposal. These opinions, when required to be issued, whether favorable or unfavorable, are contained in this disclosure statement and should also be read carefully.

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can satisfy what he has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. Further, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

The Board of County Commissioners asks that you pay particular attention to processes for road maintenance. Requirements to render roads eligible for County maintenance are very stringent. County maintenance may not be forthcoming for a long period of time, if ever.

Finally, the Board of County Commissioners recommends that you see the property before buying or leasing it. However, if you do not see the property prior to purchasing or leasing it, you have six months from the time of purchase or lease to inspect the property. Upon inspecting the property, you have three days from the date of inspection to rescind the transaction and receive all of your money back from the subdivider. You must give the subdivider notice of you intent to rescind within three day of your inspection of the property.

ALL SUBDIVISIONS CONTAINING 5 TO 24 PARCELS OF LAND MUST COMPLETE EACH ITEM SET FORTH IN PARENTHESIS BELOW

1. NAME OF SUBDIVISION

(name of subdivision)

2. NAME AND ADDRESS OF SUBDIVIDER

(name)

(address)

(telephone number)

3. NAME AND ADDRESS OF PERSON IN CHARGE OF SALES OR LEASING IN NEW MEXICO

(name)

(address)

4. PROPOSED RANGE OF SELLING OR LEASING PRICES

(\$ _____ = lowest amount) _____ (size of parcel sold or leased)

(\$ _____ = highest amount) _____ (size of parcel sold or leased)

5. FINANCING TERMS

(interest)

(time price differential)

(amount paid as a discount)

(service charges)

(premium for credit life or other insurance if it is a condition for giving credit)

(closing costs)

(any other information required by the Truth in Lending Act, if not set forth above)

6. NAME AND ADDRESS OF HOLDER OF LEGAL TITLE

(name of person who is recorded as having legal title)

(address)

7. NAME AND ADDRESS OF PERSON HAVING EQUITABLE TITLE

(name of person recorded as having equitable title)

(address)

NOTE: IF ANY OF THE PERSON NAMED ABOVE IS A CORPORATION,
PLEASE SET OUT HERE THE NAME AND ADDRESSES OF ALL
OFFICERS IN THAT CORPORATION

8. CONDITION OF TITLE

Include here at least the following information where applicable:

(number of mortgages)

(name of each mortgage)

(balance owing on each mortgage)

(summary of the release provisions in each mortgage)

(number of all real estate contracts on the subdivided land for which the
subdivider is making payments as a purchaser)

(name of each person holding a real estate contract as owner of the
subdivided land for which the subdivider is making payments as a purchaser)

(balance owing on each real estate contract)

(summary of the release provisions in each real estate contract)

(statement of any other encumbrances on the land)

(statement of any other conditions relevant to the state of the title)

(statement of whether lot purchaser will be protected if subdivider defaults n
his obligations, and property is foreclosed or forfeited)

(statement of means of protection to lot purchaser)

9. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD SUBJECTING THE SUBDIVIDED LAND TO ANY UNUSUAL CONDITIONS AFFECTING ITS USE OR OCCUPANCY

(include here all deed and plat restrictions affecting the subdivided land)

10. ESCROW AGENT

(name)

(address)

(statement about whether or not the subdivider has any interest or financial ties with the escrow agent)

11. UTILITIES

(name of entity providing phone service, if available) (estimated cost)

(name of entity providing electrical service, if available) (estimated cost)

(name of entity providing gas service, if available) (estimated cost)

(name of entity providing water, if available) (estimated cost)

12. INSTALLATION OF UTILITIES

Include here the date each utility will be available for use by the owner if the subdivider is providing for utilities.

(water) (date)

(phone) (date)

(electricity) (date)

(gas) (date)

(liquid waste disposal) (date)

(solid waste disposal) (date)

13. UTILITY LOCATION

(If all utilities are to be provided to each parcel in the subdivision, please make this statement here.)

(If utilities are to be provided, but not for all parcels within the subdivision, please enumerate those parcels which will not be provided with a particular utility.)

(State here if each of the utilities to be provided will be located above or underground.)

14. WATER USE

Include here whether or not there will be water for domestic use, commercial use or recreational use and include any limitation, physical or legal, anticipated for each use indicated.

(domestic use)	(limit, if any)	(indicate whether the subdivider or owner will provide the water)
<hr/>		
(commercial use)	(limit, if any)	(" " ")
<hr/>		
(recreational use)	(limit, if any)	(" " ")
<hr/>		

15. AMOUNT OF WATER

If the subdivider is to provide water for any use, he shall provide the following information:

(minimum daily quantity of water to be provided for each parcel and for each proposed use)

(the date on which water will be made available to each parcel and for each proposed use)

16. WATER DELIVERY

(describe the means of water delivery within the subdivision)

If the water will be supplied by a public utility or a private water company already in existence, there must be documents attached, signed by an authorized representative of that entity, confirming that it will service the subdivision.

17. WATER SYSTEM EXTENSION

(state what the prospective owner will be required to pay for the extension of water to his parcel if he wants water prior to the date scheduled by the subdivider)

18. LIFE EXPECTANCY OF THE WATER SUPPLY

Include the life expectancy of each source of water supply under full development of the subdivision.

_____ (source) _____ (life expectancy)

19. *WELLS NOTE: PROSPECTIVE OWNERS MUST PROVIDE THEIR OWN

(average, maximum and minimum depth to water in the subdivision if water is available only from subterranean sources)

_____ (recommended total depth of well)

_____ (estimated yield in gallons per minute of wells completed to recommended total depths)

_____ (recommended pump settings and size)

_____ (lithological characteristics of formations through which well is to be completed)

_____ (name and address of organization providing subdivider with hydrological and geohydrological data)

_____ (estimated cost of well completed to the estimated depth and equipped for production)

20. *SURFACE WATER

_____ (state the source and yield of the surface water supply)

21. STATE ENGINEER'S OPINION ON WATER

Include here the approved summary of the opinion received by the Board of County Commissioners from the State Engineer on:

(whether or not the subdivider can satisfy the proposals contained in this disclosure statement concerning water - except water quality)

(whether or not the subdivider is conforming with county's regulations on water - except water quality)

*Not applicable if subdivider is required or intends to provide water for domestic use.

22. WATER QUALITY

(describe any quality which would make the water unsuitable for use within the subdivision)

(state each maximum allowable water quality parameter that has been exceeded with commission approval and the name of the element, compound, or standard that has exceeded that parameter)

23. ENVIRONMENTAL IMPROVEMENT DIVISION'S OPINION OF WATER QUALITY

Include here the approved summary of the opinion received by the Boards of County Commissioners from the Environmental Improvement Division on:

(whether or not the subdivider can satisfy the water quality proposals made in this disclosure statement)

(whether or not the subdivider is conforming with the county's regulations on water quality)

24. LIQUID WASTE DISPOSAL

(describe the precise type of liquid waste disposal system that is proposed and that has been approved by the commission for use within the subdivision)

If liquid waste disposal will be supplied by a public utility or a private sewer company already in existence, there must be documents attached, signed by an authorized representative of that entity, confirming that it will service the subdivision.

NOTE: NO OTHER LIQUID WASTE DISPOSAL SYSTEM MAY BE USED IN A SUBDIVISION OTHER THAN THE SYSTEM APPROVED BY THE BOARD OF COUNTY COMMISSIONERS.

25. ENVIRONMENTAL IMPROVEMENT DIVISION'S OPINION OF LIQUID WASTE DISPOSAL

Include here the approved summary of the opinion received by the Board of County Commissioners from the Environmental Improvement Division on:

(whether or not the subdivider can satisfy the liquid waste disposal proposals made in this disclosure statement)

(whether or not the subdivider is conforming with the county's regulations on liquid waste disposal)

26. SOLID WASTE DISPOSAL

(describe the means of solid waste disposal that is proposed for use within the subdivision)

27. ENVIRONMENTAL IMPROVEMENT DIVISION'S OPINION ON SOLID WASTE DISPOSAL

Include here the approved summary of the opinion received by the Board of County Commissioners from the Environmental Improvement Division on:

(whether or not the subdivider can satisfy the solid waste disposal proposals made in this disclosure statement)

If the subdivider intends to contract with a private disposal service, there must be a written confirmation of this service by the contractor.

28. TERRAIN MANAGEMENT

(describe the suitability of the soils in the subdivision for residential use whether permanent or seasonal)

(give the location of all lots within floodways, flood fringes, and flood plains)

(give the location of all lots located on slopes in excess of 8%)

(describe the subsurface drainage for all lots)

(describe the surface drainage for all lots)

(describe the storm drainage systems including the completion date of any required to be constructed)

29. SOIL AND WATER CONSERVATION DISTRICT'S OPINION ON TERRAIN MANAGEMENT

Include here the approved summary of the opinion received by the Board of County Commissioners from the Soil and Water Conservation District on:

(whether or not the subdivider can satisfy the terrain management proposals made in this disclosure statement)

(whether or not the subdivider is conforming with the county's regulations on terrain management)

30. SUBDIVISION ACCESS

(name of town nearest subdivision)

(distance from town to subdivision)

(name of highway or state road over which distance is computed)

(If access to subdivision is available by conventional vehicle, please state that fact here. If it is not, please state that fact.)

(If property is ordinarily accessible in all seasons and under all weather conditions, please state so. If it is not, please state that fact also.)

(describe the width and type of surfacing of all roads)

(give the date on which all roads will be completed)

(state that application must be made to the county for acceptance for maintenance, and that the county may never accept responsibility for maintaining the roads)

(state whether the roads within the subdivision have been accepted for maintenance by the county)

(state the date on which all roads will be surfaced)

(state responsibility for road maintenance)

31. STATE HIGHWAY DEPARTMENT'S OPINION ON ACCESS

Include here the approved summary of the opinion received by the Board of County Commissioners from the State Highway Department on:

(whether or not the subdivider can satisfy the access proposals made in this disclosure statement)

(whether or not the subdivider is conforming with the county's regulations on access)

32. MAINTENANCE

(state the owner's maintenance and construction responsibilities)

(state the subdivider's maintenance and construction responsibilities)

(Clearly delineate responsibility for maintenance of each improvement on the property, and if a homeowners associations being organized by the subdivider for this purpose, this should be disclosed)

33. ADVERSE CONDITIONS

(state any activities or conditions adjacent to or nearby the subdivision such as feedlots, cement plants, and the like, which would subject the subdivided land to any unusual conditions affecting its use or occupancy)

34. RECREATIONAL FACILITIES

(describe all recreational facilities, actual and proposed, in the subdivision)

35. FIRE PROTECTION

(distance from subdivision)

(route over which distance is computed)

(indicate whether the fire department is staffed by volunteers or a full-time staff)

36. POLICE PROTECTION

Include here the various police units that would patrol the subdivision:

(sheriff's department, if applicable)

(municipal police, if applicable)

(state police, if applicable)

37. PUBLIC SCHOOLS

(name of nearest elementary school)

(distance of nearest elementary school and route over which distance is
computed)

(distance of nearest secondary school and route over which distance is
computed)

38. HOSPITALS

(name of nearest hospital)

(distance of nearest hospital and route over which distance is computed)

(number of beds in nearest hospital)

39. SHOPPING FACILITIES

(distance of nearest shopping facilities and route over which distance is
computed)

(number of stores in the nearest shopping facility)

40. PUBLIC TRANSPORTATION

Include here whether the subdivision is served on a regular basis by:

(bus)

(plane)

(other means of transportation)

41. COMPLETION DATES

(state here the projected dates upon which any of the items mentioned in #35
through #41 above will be available if they are not yet available)

42. INCORPORATION INTO DOCUMENT OF (SALE) (LEASE)

This Disclosure Statement is hereby incorporated into the document of (sale) (lease) for

Lot Description

Subdivider/Seller/Lessor

Lot Purchaser/Lessee

APPENDIX K

EXACTIONS AND IMPACT FEES

I. POLICY:

Rio Arriba County is committed to utilizing the growth management techniques of dedication, contribution of cash in lieu of land for the purchase of land or facilities perceived to be necessary by local governments, and impact fees, in order to assure that the County will not be overly burdened by development in an era of greatly reduced availability of federal and state funding to assist in the financing of infrastructure. These techniques place the burden on the developer to contribute to mitigating the impact of his development on the County.

II. EXPLANATION AND APPLICATION OF EXACTION AND IMPACT FEES:

- A. The technique of requiring that the developer dedicate land for public use and or contribute cash in lieu of land for the purchase of land or construction facilities perceived to be necessary by local government are usually utilized to construct facilities on-site or in the general neighborhood of the subdivision, which will be used by subdivision residents. Examples of dedication of land could include land for streets, drainage structures, and schools. Examples of contribution of cash in lieu of land could include money for expansion of a neighborhood park.
- B. Impact fees can be used to fund the construction of off-site facilities. They are more flexible than subdivision exactions, since they can be levied on various types of development, including subdivisions, condominiums, and commercial and industrial projects.

III. LEGAL JUSTIFICATION OF IMPACT FEES:

- A. Impact fees are charges levied against new developments in order to generate revenue for funding capital improvements necessitated by that development.
- B. The impact fee is a proper application of the regulatory police power, and not an invalid tax, if it meets the following three tests:
 - 1. New development must require the present system of public facilities be expanded;
 - 2. The fees imposed on users must not exceed a proportionate fair-share of the costs which are incurred in accommodating the new users of the system:

3. The fees must be expressly earmarked and spent for the purposes for which they were charged. Contractors and Builders Association v. The City of Dunedin, 329 So 2d 314 (Fla. 1976), Cert. denied, 444 U.S. 867 (1979).

IV. EXAMPLES OF IMPACT FEES:

- A. Fixed fees are based on a per-unit, bedroom, square footage, or acre charge. The fixed fee is applicable to assessment of fees for development of water, sewer systems, and solid waste disposal facilities, among other improvements.
- B. Computational fees are based on a variable rate formula calculated on a case-by-case method. The computational fee is applicable to construction of roads, through use of computerized traffic generation and link assignment models.

V. UTILIZATION OF EXACTIONS AND IMPACT FEES BY RIO ARRIBA COUNTY AS A CONDITION OF SUBDIVISION APPROVAL

- A. Rio Arriba County will not impose impact fees for construction, extension, or maintenance of any infrastructure improvement until it obtains a data base substantiating the need for construction or extension of a specific facility as a result of the subdivision or development in question, as well as a data base relating to the actual cost of the construction or extension, and develops an equitable formula as to how that cost should be apportioned.
- B. The County Commission may utilize exactions and impact fees to assist in funding expansion of County facilities and services including, but not limited to, solid waste disposal, roads, fire protection, police protection, and emergency medical service.

EXHIBIT B

TO SUBDIVISION IMPROVEMENT AGREEMENT

EXECUTED BETWEEN _____ (DEVELOPER)

AND RIO ARRIBA COUNTY (COUNTY)

ON THE _____ DAY OF _____, 19__

1. CONSTRUCTION INSPECTION METHODS.

Inspection of the subdivision improvement construction shall be performed by _____ on private facilities and by _____ on public facilities, both being New Mexico Registered Professional Engineers, in accordance with all applicable laws, ordinances and regulation. If said inspection is performed by an entity other than the County, the County may monitor said inspection and the developer shall ensure that the inspecting entity provides all inspection results, reports, and related data to the County as required for review. The County retains the right to perform its own general overall inspection of the construction project at any time prior to final acceptance of the improvements if deemed necessary or advisable by the reviewing staff and/or County Manager. For any inspections performed by the County, the Developer shall pay to the County a reasonable fee therefore.

2. CONSTRUCTION SURVEYING.

Construction surveying for the subdivision improvement project shall be performed by _____ on private facilities and by _____ on public facilities in accordance with all applicable laws, ordinances, and regulations. If said construction surveying is performed by an entity other than the County, the County may monitor said construction surveying and the Developer shall ensure that the construction surveying entity provides all construction surveying field notes, plats, reports, and related data to the County as required for review. If any construction surveying is performed by the County, the Developer shall pay to the County a reasonable fee therefore.

3. FIELD TESTING.

Field testing of the subdivision improvement construction shall be performed by _____ on private facilities and by _____ on public facilities, each being a certified testing laboratory under the supervision of a New Mexico Registered Professional Engineer, in accordance with the

technical standards contained in the applicable contract documents and all applicable laws, ordinances, and regulations. If any field testing is performed by an entity other than the County, the County may monitor said field testing and the Developer shall ensure that the field testing entity provides all field testing results, reports, and related data to the County as required for review. If any field testing is performed by the County, the Developer shall pay to the County a reasonable fee therefore.

4. RECORD TESTING.

Notwithstanding the provisions of Paragraph 3 above, the County retains the right to perform any and all record testing which may be deemed necessary or advisable by the reviewing staff and/or County Manager at the expense of the Developer.

EXHIBIT C

SUBDIVISION IMPROVEMENT AGREEMENT

EXECUTED BETWEEN _____ (DEVELOPER)

AND RIO ARRIBA COUNTY (COUNTY) ON

THE _____ DAY OF _____, 19____

1. PLAT APPROVAL STATUS.

The Developer has/has not (circle one) requested final plat approval by the County prior to construction of the Subdivision Improvements described in Paragraph 1 of the Subdivision Improvement Agreement. In a Type 3 and Type 5 subdivision, if the Developer has not requested final plat approval prior to construction of the improvements, no financial guarantee is required by the County. However, the Developer understands and agrees that the County will not approve the Developer's proposed plat until the improvements are completed in accordance with the Agreement to which this document is attached as an Exhibit.

If the Developer has requested final plat approval prior to the construction of the improvements, a financial guarantee in an amount of not less than 125 percent of the costs of completing the improvements (as estimated by the reviewing staff and/or County Manager is required pursuant to the County's Land Subdivision Regulations. Said financial guarantee must be irrevocable in form and may be affected by a bond, letter of credit, escrow deposit, or other acceptable pledge of liquid assets payable to the County in the event of Developer's default under the Subdivision Improvement Agreement.

2. FINANCIAL GUARANTEE.

With respect to the Subdivision Improvement Agreement to which this document is attached as an Exhibit, the Developer has acquired or is able to acquire the following described financial guarantee (describe fully, indicate amount, identification number, names of bank or bonding entity, inclusive dates of guarantee, and all other relevant information):

The Developer understands and agrees that the original executed financial guarantee described above must be delivered to the County simultaneously with the County's execution of the Subdivision Improvement Agreement between Developer and the County; and must be in an amount of not less than 125 percent of the cost of completing the improvements, as estimated by the reviewing staff and/or County Manager.

In the event the Developer shall fail or neglect to fulfill his obligations under this Agreement, the County shall have the right to construct or cause to be constructed the improvements specified herein, as shown on the final Plat and in the plans and specifications as approved, and the Developer as Principal and the surety or sureties shall be jointly and severally liable to pay to and indemnify the County, the total cost to the County thereof, including but not limited to, engineering, legal, and contingent costs together with any damages, either direct or consequential, which the County may sustain on account of the failure of the Developer to carry out and execute all of the provisions of the Agreement to which this document is attached as an Exhibit. The County shall have the unconditional right to call upon the financial guarantee provided by the Developer described in this paragraph for the purposes specified and in the amounts enumerated in such guarantee.

3. PROCEDURES FOR REDUCTION OF FINANCIAL GUARANTEE UPON PARTIAL COMPLETION OF IMPROVEMENTS.

The Developer may request a reduction in the amount of financial guarantee upon partial completion of the subdivision improvements. To qualify for a financial guarantee reduction, the completed improvements must be of a free-standing nature, functionally independent of any uncompleted improvements, and completed in substantial compliance with the subdivision improvement construction plans as determined by an inspection conducted by the County.

If the completed improvements meet the above requirements, the County Engineer will then estimate the cost of completing the remaining improvements. The Developer may then submit the following documents to the County for review and approval:

- a. A revised financial guarantee in an amount of not less than 125 percent of the reviewing staff and/or County Manager's estimated cost of completing the remaining improvements.
- b. A release of the original financial guarantee for execution by the County.
- c. Documentation that the completed improvements and the land in which the completed improvements are located are subject to no liens, claims, or other encumbrances.

- d. A bond or other suitable instrument guaranteeing the completed improvements against defective materials and workmanship for a period of three (3) years as set forth in Paragraph 7 of the Subdivision Improvement Agreement between the developer and the County.

Upon receipt of the above-described documents in the forms acceptable to the County, the County shall issue a Certificate of completion and Acceptance for the completed improvements and accept the revised financial guarantee tendered by the Developer.

APPENDIX L
WILDFIRE SAFETY REGULATIONS
for
SUBDIVISIONS AND DEVELOPMENT

Prepared by the
New Mexico Natural Resources Department
Forestry Division

Section 1 SUBDIVISION REGULATIONS

The following are standards for Subdivision Regulations which will help to reduce the exposure of developments to unnecessary hazards of wildfire, and provide adequate roads and other means to enhance fire protection in developed areas.

1. Slope: Fire spread rates increase with slope. Due to this natural uphill phenomenon, homes or homesites shall be restricted from vegetated hillsides that exceed 30 percent in slope over the length of the proposed developed hillside.
2. Hazardous Fire Areas: Lands containing fire chimneys (see attachment 1), excessive slope, heavy fuels or other hazardous wildfire components should be zoned to exclude development until such time as the hazard can be overcome through modification. The local office of the State Forestry Division can assist in identifying hazardous fire areas.
3. Fuelbreaks: Practical fuelbreak systems shall be installed and approved as needed in strategic fire defense locations on lands dedicated or encumbered with easements for such purposes before final plat approval. The local office of the State Forestry Division can assist in the determination of fuelbreak need, location, and design.
4. Fuel Modifications: Areas that have high fire hazard ratings which can be reduced to lower hazard ratings through thinning, grouping, or other such fuel modification, shall be so modified before the lot is sold by the developer. The local office of the State Forestry Division or a private consulting forester should be contacted to assist in determining areas needing thinning or other types of fuel modification.
5. Access: All subdivision filings shall be platted so as to provide two or more dedicated access roads for separate, multiple ingress/egress. Loop drives with one entrance point do not satisfy this need.
6. Road Dedication: All subdivision roads and road easements including fire access lanes, but not including private driveways, shall be dedicated to the public in perpetuity. All subdivision lots shall abut onto a public road.
7. Road Grade: Grade of all dedicated roads shall not exceed a maximum of 8 percent; all roads having centerline curves greater than 45 degrees in arc shall have a maximum of 6 percent grade along such curves. On straight line portions, variances to 10 percent grade may be allowed for a maximum of 200 feet in horizontal distance.

8. Road Curves: Radius of curvature on centerlines of all dedicated roads shall be a minimum of 100 feet. Variances down to 80-foot minimum radii can be made for extreme or severe topography.
9. Road Width: All dedicated roads shall have a minimum dedicated right-of-way of a 45-foot radius and a minimum all-weather gravel or paved roadbed of a 30-foot radius.
10. Cul-de-sacs: Maximum length of cul-de-sac roads shall be 750 feet as measured on the centerline. Cul-de-sac roads shall not cross major draws, canyons, or gullies conducive to fire spread, nor shall cul-de-sacs terminate in such draws, canyons, or gullies.
11. Dead-end Streets: Dead-end streets (not cul-de-sacs) shall not be permitted.
12. Road Intersections: Road and street intersections shall be as close to 90 degrees for at least 80 feet from intersection centerlines as terrain will permit. In no case will the angle of such road intersections be less than 45 degrees.
13. Stub Roads: All stub roads shall have a turn-around pad at their end until such time as the road is connected. Pad requirements shall be the same as for cul-de-sacs.
14. Road Right-of-Way: All roads and streets shall have their right-of-ways cleared of all flammable materials, living or dead, on their entire dedicated width.
15. Road Slash: To avoid insects, diseases, and wildfire hazards, all cut combustible materials, vegetative residues, including fallen or cut trees and shrubs, pulled stumps or other such flammable road-clearing debris, shall be disposed of from subdivision roadside strips by either chipping or removal prior to approval of the final subdivision plat. Roadside strips are 100-foot-wide areas that parallel each side of the road and are measured from the edge of the road right-of-way. Compacting of slash and debris into road fill areas shall not be permitted.
16. Road Names and Signs: Proposed road names for a new subdivision shall not duplicate other existing or proposed road names within the County. Street and road signs of durable and permanent materials shall be installed at all intersections in the subdivision prior to final plat approval. the County Commissioners shall have final approval in assigning road names. House or lot numbering systems should be plainly visible from the road so that emergency response vehicles can easily locate homes in the event of an emergency.

17. Fire-fighting Water Supplies: Fire hydrant systems that meet the current National Fire Protection Association (NFPA) standards shall be installed not more than 1,000 feet apart and fully charged with water prior to approval of the final plat. In the absence of a working hydrant system, water cisterns of good design, metal or concrete, shall be provided at strategic locations with a minimum capacity per cistern of 100 gallons per acre protected, or 500 gallons per dwelling unit, whichever is more, prior to approval of the final plat. Reduces cistern density on cluster developments with large open spaces may be allowed. It is further recommended that access to each cistern be provided and dedicated to the County for use by the local fire protection agencies. The developer should construct and maintain the cistern(s) for one year before acceptance. Thereafter, a Homeowners Association should provide care and maintenance of the cistern(s).

18. Fire Stations: Developments that are planned in excess of four (4) miles from the nearest presently available fire protection, as measured over public roads, shall dedicate to the County lands sufficient and suitable for fire department stations or substations, or the developer shall escrow title of such lands in the name of the County.

19. Lot Size: Minimum lot size shall increase as slope and amount of vegetation increase:

<u>% SLOPE</u>	<u>MINIMUM LOT SIZE (ACRES)</u>	
	<u>OPEN GRASS</u>	<u>FOREST & BRUSH</u>
0-9	1	2
10-19	2	3
20-29	3	4
30-over*	5	5

*Minimums may be raised and other modifications required by the County if development is to be allowed on slopes of 30% or more. Alternative lot sizes in the form of "Cluster" or "planned unit development", are urged whenever possible.

20. Driveways: The subdivider shall show on the preliminary plat that driveway access is available to all building sites within a maximum grade of 12%. Entrance of driveways on to public roads should be as close to 90 degrees in angle as possible in order to provide adequate access for emergency vehicles.

21. Final Plate: Copies of the final plat shall be sent to the local agencies or organizations responsible for fire control and emergency response in the

area. Included are the local offices of the State Forestry Division and local volunteer fire departments.

22. Miscellaneous Standards:

- a. House Numbers: House numbers or a fire numbering system shall be plainly visible and legible from the street or road.
- b. Power for Pumps: Electrical service loops to buildings having individual water wells and pump pressure systems shall run first to the pump and be provided with adequate controls or switches such that fire in the building or its electrical systems will not impair or stop the operation of the pump pressure system.

Section 2 WILDFIRE HAZARD AREA CONTROL REGULATIONS

- A. Purposes: To promote the public health, safety, and general welfare, to minimize the effect of significant hazards to public health and safety, or to property, due to a wildfire hazard, by the proper administration of all land use changes within such wildfire hazard areas, and to promote wise use of wildfire hazard areas. This Wildfire Hazard Area Control Regulation has been established with the following purposes intended:
 1. To reduce the impact of wildfire hazards to life and property by:
 - a. Prohibiting certain land uses which are dangerous to life or property in wildfire hazard areas;
 - b. Restricting uses which would be hazardous to public health or property in wildfire hazard areas;
 - c. Restricting uses which are particularly vulnerable to wildfire hazard so as to alleviate hardship and eliminate the demands for public expenditures for relief and protection;
 - d. Requiring permitted wildfire area land uses, including public facilities, which serve uses to be protected from wildfire hazards by providing for wildfire hazard investigation and the avoidance of or mitigation of such hazard impacts at the time of initial construction;
 - e. Adoption of regulation which require:

- (1) The disposal of flammable lot clearing debris from homesite areas by shipping or removal.
 - (2) Homes built upon slopes to have fully enclosed foundation walls.
 - (3) Each lot and house to be identified by a visible and legible house number which can be plainly seen from the street or road.
 - (4) Development roads, both interior and service roads, to be adequate for use and service by fire trucks and other safety equipment.
2. To protect wildfire hazard area occupants or users from the impacts of wildfire hazards which may be caused by their own, or other, land use and which is, or may be, undertaken without full realization of the danger by:
- a. Regulating the area in which, or the manner in which, structures designed for human occupancy may be constructed so as to prevent danger to human life or property within such structures;
 - b. Designating, delineating, and describing, areas that could be adversely affected by wildfire hazards so as to protect individuals from purchasing or improperly utilizing lands for purposes which are not in fact suitable.
3. To protect the public from the burden of excessive financial expenditures from the impacts of wildfire hazards and relief by:
- a. Regulating all land uses within wildfire hazard areas so as to produce a pattern of development or a soundly engineered manner of construction which will minimize the intensity and/or probability of damage to property and loss of life or injury to the inhabitants or the users of wildfire hazard areas.
 - b. Regulating manmade changes which could initiate or intensify adverse conditions within wildfire hazard areas.

B. General Provisions:

1. Jurisdiction: The Jurisdiction of the Regulation includes all lands within Designated Wildfire Hazard Areas within the county.

2. Boundaries: The boundaries of the Designated Wildfire Hazard Areas shall be delineated on County maps, adopted by ordinance.
 3. Interpretation: In their interpretation and application, the provisions of this Regulation shall be held to be minimum requirements and shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by New Mexico Statutes.
 4. Warning and Disclaimer of Liability: The degree of protection wildfire hazards intended to be provided by this Regulation is considered reasonable for regulatory purposes, and is based on accepted forestry and fire science methodology. This regulation is intended to minimize the dangers, costs, and impacts from wildfire hazards. Therefore, unforeseen or unknown wildfire conditions or natural or man-made changes in conditions such as climate, vegetation, fire breaks, fuel materials, fire suppression or protection devices, and ignition sources may contribute to future damages to structures and land uses even though properly permitted within Designated Wildfire Hazard Areas. This Regulation does not imply that areas outside Designated Wildfire Hazard are boundaries or land uses permitted within such areas will always be totally free from the impact of wildfire hazards. This section shall not create a liability on the part of, or be a cause of action against, the County or any officer or employee thereof, or State of New Mexico or any employee thereof for any personal or property damage that may result from reliance on this Regulation or from damages occurring in areas which for any reason have not been officially designated as Wildfire Hazard Areas.
 5. Adoption of Official Maps: The location and boundaries of the Designated Wildfire Hazard Areas established by this Regulation are shown upon the Designated Wildfire Hazard Area Maps of the County which are hereby incorporated into this Regulation. These maps, together with everything shown thereon, and all amendments thereto, shall be as much a part of this Regulation as if fully set forth and described therein. Each change in the official maps shall be subject to the Amendment procedure as required in Section 5.5 "Map Disputes" and Section 7 "Amendments".
- C. Nonconforming Uses: The existing lawful use of land, structures, or premises which is not in conformity with the provisions of this Regulation may be continued subject to the following conditions:

1. No such land use shall be changed, expanded or enlarged except in conformity with the provisions of this Regulation.
2. Uses or adjuncts thereof which are nuisances or which significantly increase the severity of wildfire hazards and create an increasingly severe impact on current or proposed land use in or adjacent to a Designated Wildfire Hazard Area shall not be permitted to continue as nonconforming uses.

D. Designated Wildfire Hazard Areas:

1. Application: Provisions of this regulation apply to all Wildfire Hazard Areas for which appropriate identification and evaluation have been made and which have been Designated by the Board of County Commissioners, by ordinance.
2. Description of Designated Wildfire Hazard Areas: The Designated Wildfire Hazard Areas shall include the area delineated on maps which have been reviewed and adopted by the Board of county Commissioners, by ordinance, and kept on file and available in the county Manager's Office in Espanola and Tierra Amarilla.
3. Description of Permitted Uses: The following open uses shall be permitted within Designated Wildfire Hazard Areas to the extent that they are not prohibited in a particular area by any underlying county or city zoning ordinance or regulation.
 - a. Agricultural Forestry and open space uses which do not require permanent structures for human habitation; which provide reasonable fire protection and suppression facilities; and which do not constitute a source of probable ignition of fires.
 - b. Industrial-commercial uses which do not require permanent structures for habitation; which provide reasonable fire protection and suppression facilities; and which do not constitute a source of probable ignition of fires.
 - c. Public and private recreational uses not requiring permanent structures designed for human habitation if such uses do not cause concentration of people in areas during periods of high hazard probability.
4. Description of Road Requirements: All development roads within a

Designated Wildfire Hazard Area and roads which service and connect such development to main county roads shall meet the minimum standards set forth in **WILDFIRE SAFETY GUIDELINES AND STANDARDS FOR SUBDIVISIONS AND DEVELOPMENTS**, Parts a-5 through A-16 inclusive.

5. Description of Fire Protection and Suppression Requirements: All fire and suppression systems proposed within a Designated Wildfire Hazard Area shall meet the minimum standards set forth in the **WILDFIRE SAFETY GUIDELINES AND STANDARDS FOR SUBDIVISIONS AND DEVELOPMENTS**, Parts A-3, A-4, A-17, A-18, A-19.

E. Administration:

1. Designated Wildfire Hazard Area Administrator: The County Manager shall administer the provisions of this regulation. When necessary, he shall call upon the Natural Resources Department-Forestry Division to provide technical and scientific assistance in administering the provisions of this Regulation.
2. Application for Development Permit: Any person, company, or corporation desiring to undertake development or to make significant land use changes shall make application with the Board of County Commissioners. The application shall be filed on a form prescribed by the County Commission. Reasonable fees for this permit shall be set sufficient to cover the cost of processing the application, including the cost of holding the necessary hearings. Such fee shall be paid at the time of filing such application.
 - a. Application for Development Permit: An application for development permit shall include:
 - (1) A map or maps showing location, nature, and density of the proposed development or land use change. Such maps shall be on a scale sufficiently detailed to meet the objectives of this Regulation but, in no case, shall be less detailed than 1 inch = 500 feet. The applicant shall also explain in narrative, pictorial, or graphic form, the nature, density, and intensity of the proposed development or land use change proposed.
 - (2) A map or maps portraying the existing wildfire conditions of the area with particular attention given to the Designated Hazard conditions and the slope, aspect,

topographic, and vegetation (living and dead) conditions. Such maps shall be on a scale sufficiently detailed to meet the objectives of this Regulation but, in no case, less detailed than 1 inch = 500 feet. If possible, the wildfire condition maps shall be at the same scale and format as the development plan maps. Such maps shall be signed by the professional forester preparing them.

- (3) A map or maps and associated narrative showing:
 - (a) The procedures proposed to reduce conditions of wildfire hazard.
 - (b) The fire protection plan for the proposed use.
 - (c) All fire suppression facilities which are necessary to meet the objectives of this regulation. The above maps may be produced in the form of overlays to be used in conjunction with the wildfire condition maps required in 2. a. above.
- (4) A wildfire hazard report explaining the wildfire conditions and mitigating procedures shown on the above maps. This report shall also include an analysis of climatic conditions which may effect the intensity of the hazard or the season of hazard existence. Potential ignition sources on or adjacent to the area must be identified and analyzed.
- (5) Other permit information required by the County Commission.

b. Exemptions: This Regulation shall not apply to any development which meets any exemptions set forth in the New Mexico Subdivision Act, 47-6-1 et seq NMSA 1978.

F. Permit Review:

1. Not later than 30 days after receipt of a completed application for a permit, notice of a public hearing on said application shall be published. Such publication shall be at least once in a newspaper of general circulation in the County, not less than 30 or more than 60 days before the date set for hearing.

2. Upon receipt of a complete application for development, the County shall forward a complete copy of such application together with maps and plans to the District Forester, Natural Resources Department, Forestry Division for the County. It shall also include such additional available information pertinent to the application. It shall notify the District Forester of the date of the proposed hearings on said application.
3. If a person proposes to undertake any development in a wildfire hazard area which has not been previously designated and for which guidelines or regulations have not been adopted, The County may hold one hearing for the determination of Designation and guidelines and the granting or denying of the permit.

G. Permit approval or Denial:

1. Deliberations on the application shall include but not be limited to:
 - a. Guidelines and criteria promulgated and distributed by the New Mexico Forestry Division.
 - b. The technical information presented by the applicant.
 - c. The recommendations of the Forestry Division.
 - d. Any other available technical information.
 - e. The severity of the hazardous conditions and the probable effect of those conditions on the proposed development.
 - f. The intensity and character of the proposed development and its probable effect on those hazardous conditions.
 - g. Relationship between [e and f] above and the related potential impact upon future users of the subject and adjacent or affected lands.
 - h. The provision of firebreaks and other means of reducing conditions conducive to fire.
2. A complete record of such proceedings shall be made and preserved.
3. The County may approve a permit to allow a development in a Designated Wildfire Hazard Area if the proposed development complies with this Regulation.

4. Within forty-five (45) days after conclusion of hearings on the Development Application Permit, the County shall render a decision as to approval or denial. It shall state, in writing, reasons for its decision and its findings and conclusion, and shall provide timely transmittal of its findings to the applicant.
 5. After the effective date of this Regulation, any person desiring to engage in a development in a Designated Wildfire Hazard Area who does not obtain a permit pursuant to this Regulation may be enjoined from engaging in such development.
 6. The denial of a permit by a local governmental agency shall be subject to judicial review in the district court for the judicial district in which the proposed development was to occur.
- H. Mapping Disputes: The following procedures shall be used by the County Commissioners in deciding contested cases in which the boundary of a Designated Wildfire Hazard Area is disputed or in cases where, because of local detailed circumstances, the designated hazard condition does not present a significant hazard to public health, safety, or to property at the specific location for the particular proposed land use.

In all cases, a person contesting the location of the district boundary or the severity of conditions at a specific location within the Designated Wildfire Hazard Area shall be given a reasonable opportunity to present his case to the Board of County Commissioners and shall submit technical and physical evidence to support such contest. The Board of County Commissioners shall not allow deviations from the boundary line as mapped or non-permitted land uses within the boundary area unless technical and physical evidence clearly and conclusively establishes that the map location of the line is incorrect, or that the Designated Hazard conditions do not present a significant location within the hazard area boundary for the particular proposed land use.

I. Amendments:

The Board of County commissioners may, from time-to-time, alter, supplement, or change the Designated Wildfire Hazard Area Boundaries and the provisions contained in the Regulation, in the manner provided by law.

Amendments to this Regulation may be made on petition of any interested party in accordance with the provisions of the New Mexico Subdivision Act.

APPENDIX M

**AGREEMENT TO CONSTRUCT
SUBDIVISION IMPROVEMENTS
PUBLIC & PRIVATE**

(Form)

THIS AGREEMENT made this _____ day of _____, 19____, by and between Rio Arriba County, New Mexico (hereinafter referred to as "County") and _____ (hereinafter referred to as "Developer") pursuant to Article XII, Section F of Rio Arriba County Land Subdivision Regulations, (Ordinance _____, effective _____, 1986).

WHEREAS, the Developer is developing certain lands within the County of Rio Arriba, State of New Mexico know as _____ (hereinafter referred to as the "Subdivision"); and

WHEREAS, the Developer has submitted and the County has approved a preliminary plat identified as _____ describing the Subdivision; and

WHEREAS, the preliminary plat submitted by the Developer proposes both private and public infrastructure improvements within the subdivision; and

WHEREAS, Article XII, Section F, of the County's Subdivision Land Regulations requires the Developer to install and construct certain public improvements at no cost to the County; and

WHEREAS, The County requires the execution of an Agreement to construct said public improvements, together with actual satisfactory construction or acceptable guarantees of construction as specified below, as a prerequisite to approval of a Final Plat of the Subdivision; and

WHEREAS, the Developer must obtain County approval of construction plans, specifications, and cost estimates for the improvements and upon county approval of such construction plans, specification, and cost estimates the County is prepared to issue the Developer a Work Order permitting the commencement of construction activities upon execution of this Agreement and payment of all required fees, all as set forth and specified in Exhibit A, which is attached hereto and incorporated herein as if fully set forth in this Agreement; and

WHEREAS, the County is willing to inspect or monitor the private inspection of the

improvements during the course of their construction and accept said improvements upon their satisfactory completion, all as set forth and specified in Exhibit B, which is attached hereto and incorporated herein as if fully set forth in the Agreement; and

WHEREAS, the Developer financially guarantees the satisfactory completion of the infrastructure construction required herein and the payment of all labor and material costs and charges, all as set forth and specified in Exhibit C, which is attached hereto and incorporated herein as if fully set forth in this Agreement;

NOW, THEREFORE, in consideration of the above, the county and the Developer hereby agree as follows:

1. The Developer shall, on or before the _____ day of _____, 19____, complete to the satisfaction of the County the improvements required for the Subdivision as set forth, specified and referenced in Exhibit A attached hereto. The improvements which the Developer shall satisfactorily complete within the time limitation stated above are described and identified in Exhibit D, which is attached hereto and incorporated herein as if fully set forth in this Agreement.

The time limitation stated above may be extended by the County Engineer for a period not to exceed twelve (12) months if the Developer shows adequate reasons for said extension.

2. After execution of the Agreement, payment of all fees as specified in Exhibit A attached hereto, and, if applicable, delivery of the financial guarantee specified in Exhibit C attached hereto, the Developer shall be issued a Work Order by the County. The Developer shall advise the County reviewing staff and/or County Manager in advance of the actual start of construction and arrange for all inspections required and specified in Exhibit B attached hereto. The Developer shall permit the County or other participating agencies to make such tests and inspections during the construction of the improvements and upon completion of the improvements as are necessary or desirable.
3. (a) Prior to final acceptance of the completed Public Improvements by the County, the Developer shall furnish to the County all documentation of the completion of construction as set forth and specified in Exhibit A attached hereto.

(b) Prior to release of financial assurance, the Developer shall either provide Certification by a New Mexico registered Professional Engineer that the required Private Improvements have been constructed in compliance with approved plans and specifications or the Developer shall make necessary arrangements for Certification by

the County reviewing staff and/or County Manager that the required improvements are satisfactorily completed.

4. Until acceptance of the improvements by the County, the Developer shall be solely responsible for maintaining the premises being subdivided in a safe condition. The Developer agrees to defend, indemnify and hold harmless the County and its officers, agents, and employees from and against all suits, actions, or claims of any character brought because of any injury or damage arising out of the design or construction of the improvements or by reason of any act or omission, or misconduct of the Developer, his agents, employees, or the Engineer or Contractor or their agents or employees. The indemnity required hereunder shall not be limited by reason of the specifications of any particular insurance coverage in this Agreement. Nothing herein is intended to impair any right or indemnity under the laws of the State of New Mexico.
5. The Developer shall procure or cause to be procured and maintain public liability insurance in the amount of not less than One Million Dollars (\$1,000,000) for accidents or occurrences which cause bodily injury, death or property damage to any member of the public resulting from any condition of the lands of the subdivision or improvements therein or the construction activities thereon. The insurance policy must name Rio Arriba County, its employees, and elected officials, as their interest may appear, as additional insureds. The Developer shall maintain such insurance until acceptance of the improvements by the County. Any cancellation provision must provide that if the policy is cancelled prior to the expiration date hereof, materially changed, or not renewed, the issuing company will mail 30 days written notice to the County, attention County Manager. The Developer shall furnish the County Engineer a certificate of said insurance prior to issuance of a Work Order for construction of the improvements.
6. If at the time that construction of the Project is completed the County does not own the real property on or in which the improvements are constructed, the Developer shall convey such real property and property rights as the County deems necessary, together with all improvements, to the County free and clear of all claims, encumbrances and liens prior to final acceptance of the improvements by the County. Conveyance may be appropriate dedication on the final plat of the subdivision.
7. At the time of acceptance of the completed improvements or any portion thereof by the County, the Developer shall furnish or cause to be furnished a bond or other suitable guarantee in a form and with a surety satisfactory to the County to guarantee the completed project against defective materials and workmanship for a period of three (3) years following the date of acceptance by the County.

8. The County shall either perform or monitor the performance of inspections during the course of construction of the improvements and inspect the improvements upon their completion in a timely manner, all as set forth and specified in Exhibit B attached hereto.
9. The County shall designate a Construction Engineer and/or Inspector for this project.
10. The County shall make available at established reproduction costs for the use of the Developer or its agents all of its maps, records, laboratory tests, or other data pertinent to the work to be performed by the Developer or its agents pursuant to this Agreement and also any other maps, records, or other materials available to the County upon the County's request to any other public agency or body.
11.
 - (a) The County shall issue a Certificate of Completion and Acceptance for the Public Improvements upon final completion to the County's satisfaction of the Improvements as described in the plans and specifications as set forth and specified in Exhibit A attached hereto.
 - (b) The County shall issue a Certificate of Completion for the Private Improvements upon final completion to the County's satisfaction of the Private Improvements as described in the plans and specifications as set forth and specified in Exhibit A attached hereto.
12. If the Developer has requested Final Plat approval by the County prior to the actual construction of the improvements, the County will approve the Final Plat for recordation upon execution of this Agreement, payment of all fees specified in Exhibit A attached hereto, delivery of the financial guarantees specified in Exhibit C attached hereto and full compliance with the County's Land Subdivision Regulation.
13. This Agreement shall not be assigned except with the written consent of the parties hereto and the express written concurrence of any surety who has undertaken to guarantee the completion of the Improvements. If so assigned, this Agreement shall extend to and be binding upon the successors and assigns of the parties hereto.
14. In the event of the sale, conveyance, or assignment of the Subdivision or any portion thereof, the County will not release the Developer from its obligations under this Agreement and will continue to hold the Developer responsible for all Improvements until a successor in interest to the Developer has posted a suitable guarantee and entered into a Subdivision Improvement Agreement with the County. At such time as acceptable

security, has been posted by the Developer's successor in interest and the Agreement executed, the County will release the guarantee.

15. Should there be a conflict between the terms and conditions of this Agreement (with Exhibits A, B, C, and D) and the terms and conditions of any other document referred to herein, the terms and conditions of this Agreement (with Exhibits A, B, C, and D) shall govern.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

DEVELOPER

COUNTY OF RIO ARRIBA, NEW MEXICO

Signed

Title

Name

Title

County Manager

ATTEST:

County Clerk

REVIEW BY:

County Attorney

STATE OF NEW MEXICO }
 }ss.
COUNTY OF RIO ARRIBA }

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____ of _____

Notary Public

My Commission Expires:
STATE OF NEW MEXICO }
 }ss.
COUNTY OF RIO ARRIBA }

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____ County Manager of the County of Rio Arriba.

Notary Public

My Commission Expires: _____

EXHIBIT A

TO SUBDIVISION IMPROVEMENT AGREEMENT

EXECUTED BY AND BETWEEN _____ (DEVELOPER)

AND THE COUNTY OF RIO ARRIBA, NEW MEXICO ON

THE _____ DAY OF _____, 19_____

1. COMMITMENT TO CONSTRUCT IMPROVEMENTS.

The developer shall construct in a manner satisfactory to the County the improvements listed in Paragraph 1 of the Subdivision Improvement Agreement and which are shown in greater detail on the Developer's proposed and approved Subdivision Improvements Plan, which was filed with the office of the County Manager and identified as Project No. _____.

2. DESIGN AND CONSTRUCTION METHODS.

As soon as reasonably practical after approval of the Developer's Preliminary Plat of the Subdivision, The Developer shall submit to the County reviewing staff final construction plan, specifications, and cost estimates for the proposed public improvements. At this time, the Developer shall pay all fees required under Article VI, Section 5 of the County Land Subdivision Regulation and Paragraph 4 of the Exhibit.

The Developer has engaged _____ as Engineer(s) for the construction project, who are Registered Professional Engineers in the State of New Mexico. The Developer shall ensure that the Engineer(s), in such capacity, shall provide the following services prior to, during, and after construction of the improvements:

The Developer shall ensure that the Engineer(s) perform all of the above services in a satisfactory manner and submit to the County reviewing staff and/or County

Manager any reports required by the County reviewing staff and/or County Manager.

The Developer has engaged _____ as Contractor(s), who is properly licensed in the State of New Mexico. The Developer shall ensure that the Contractor(s), in such capacity, shall in a manner satisfactory to the County construct the improvements as shown on Developer's proposed Subdivision Improvements Plan (Project No. _____), incorporating any change orders approved by the County reviewing staff and/or County Manager, and all other applicable laws, regulation, and policies. Construction surveying and testing shall be performed as set forth in Exhibit B of the Subdivision Improvement Agreement between Developer and the County.

3. COMPLETION OF CONSTRUCTION.

The developer shall report the completion of construction in writing to the County reviewing staff and/or County Manager. Upon receipt of the report, the reviewing staff and/or County Manager shall visually inspect the public improvements to verify completion of construction according to plan. Subsequent to verification, the Developer shall submit to the reviewing staff and/or County Manager a "final acceptance package", which shall consist of the following documents:

- a. "As-built" drawings of reproducible quality, depicting all construction of the public improvements as actually accomplished in the field and certified by a New Mexico Registered Professional Engineer or Land Surveyor, as appropriate.
- b. A list of quantities of contract items in place, using the bid items in a state-approved list of standard estimated unit prices. This list shall be divided into the following categories as applicable:
 - (1) Sanitary sew items and quantities;
 - (2) Water service items and quantities;
 - (3) Street paving quantities;
 - (4) Street curb and gutter quantities; and
 - (5) Storm drainage improvements and quantities.

The County shall concurrently provide a written certificate from the reviewing staff and/or County Manager that the construction has been performed in substantial compliance with the County Land Subdivision Regulations and with the approved final plans and specifications for public improvements. If the County is acting as the Contractor for all or a portion of the improvements constructed pursuant to this

Agreement, the County shall prepare its own final acceptance package documents for those improvements actually constructed by the County.

Upon receipt of the Developer's "final acceptance package", the reviewing staff and/or County Manager shall review it for completeness and accuracy. If the documentation has been satisfactorily completed, the reviewing staff and/or County Manager shall approve the package and issue a certificate of Completion and Acceptance. Any final guarantee provided by the Developer in accordance with Article XII, Section F of the County's Land Subdivision Regulation and as described in Exhibit C to the Subdivision Improvement Agreement between the Developer and the County shall be released no later than sixty (60) days after approval of the final acceptance package by the reviewing staff and/or County Engineer.

4. PAYMENT OF FEES.

Prior to issuance of a Work Order, the Developer shall pay to the County the following fees:

<u>Type of Fee</u>	<u>Amount</u>
<u>Administration Fee</u>	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Prior to final acceptance of the improvements by the County, the Developer shall pay any other County fees which may have been incurred during the course of construction.

EXHIBIT B

TO SUBDIVISION IMPROVEMENT AGREEMENT

EXECUTED BETWEEN _____ (DEVELOPER)

AND RIO ARRIBA COUNTY (COUNTY)

ON THE _____ DAY OF _____, 19

1. CONSTRUCTION INSPECTION METHODS.

Inspection of the subdivision improvement construction shall be performed by _____ on private facilities and by _____ on public facilities, both being New Mexico Registered Professional Engineers, in accordance with all applicable laws, ordinances and regulations. If said inspection is performed by an entity other than the County, the County may monitor said inspection and the developer shall ensure that the inspecting entity provides all inspection results, reports, and related data to the County as required for review. The County retains the right to perform its own general overall inspection of the construction project at any time prior to final acceptance of the improvements if deemed necessary or advisable by the reviewing staff and/or County Manager. For any inspections performed by the County, the Developer shall pay to the County a reasonable fee therefore.

2. CONSTRUCTION SURVEYING.

Construction surveying for the subdivision improvement project shall be performed by _____ on private facilities and by _____ on public facilities in accordance with all applicable laws, ordinances, and regulations. If said construction surveying is performed by an entity other than the County, the County may monitor said construction surveying and the Developer shall ensure that the construction surveying entity provides all construction surveying field notes, plats, reports, and related data to the County as required for review. If any construction surveying is performed by the County, the Developer shall pay to the County a reasonable fee therefore.

3. FIELD TESTING.

Field-testing of the subdivision improvement construction shall be performed by _____ on private facilities and by _____ on public facilities, each being a certified testing laboratory under the supervision of a New Mexico

Registered Professional Engineer, in accordance with the technical standards contained in the applicable contract documents and all applicable laws, ordinances, and regulations. If any field testing is performed by an entity other than the County, the County may monitor said field testing and the Developer shall ensure that the field testing entity provides all field testing results, reports, and related data to the County as required for review. If any field testing is performed by the County, the Developer shall pay to the County a reasonable fee therefore.

4. RECORD TESTING.

Notwithstanding the provisions of Paragraph 3 above, the County retains the right to perform any and all record testing which may be deemed necessary or advisable by the reviewing staff and/or County Manager at the expense of the Developer.

EXHIBIT C

TO SUBDIVISION IMPROVEMENT AGREEMENT

EXECUTED BETWEEN _____ (DEVELOPER)

AND RIO ARRIBA COUNTY (COUNTY)

ON THE _____ DAY OF _____, 19

1. PLAT APPROVAL STATUS.

The Developer has/has not (circle one) requested final plat approval by the County prior to construction of the Subdivision Improvements described in Paragraph 1 of the Subdivision Improvement Agreement. In a Type 3 and Type 5 Subdivision, if the Developer has not requested final plat approval prior to construction of the improvements, no financial guarantee is required by the County. However, the Developer understands and agrees that the County will not approve the Developer's proposed plat until the improvements are completed in accordance with the Agreement to which this document is attached as an Exhibit.

If the Developer has requested final plat approval prior to the construction of the improvements, a financial guarantee in an amount of not less than 125 percent of the costs of completing the improvements (as estimated by the reviewing staff and/or County Manager) is required pursuant to the County's Land Subdivision Regulations. Said financial guarantee must be irrevocable in form and may be affected by a bond, letter of credit, escrow deposit, or other acceptable pledge of liquid assets payable to the County in the event of Developer's default under the Subdivision Improvement Agreement.

2. FINANCIAL GUARANTEE.

With respect to the Subdivision Improvement Agreement to which this document is attached as an Exhibit, the Developer has acquired or is able to acquire the following described financial guarantee (describe fully, indicate amount, identification number, names of bank or bonding entity, inclusive dates of guarantee, and all other relevant information):

The Developer understands and agrees that the original executed financial guarantee described above must be delivered to the County simultaneously with the County's execution of the Subdivision Improvement Agreement between Developer and the County; and must be in an amount of not less than 125 percent of the cost of completing the improvements, as estimated by the reviewing staff and/or County Manager

In the event the Developer shall fail or neglect to fulfill his obligations under this Agreement, the County shall have the right to construct or cause to be constructed the Improvements specified herein, as shown on the Final Plat and in the plans and specifications as approved, and the Developer as Principal and the surety or sureties shall be jointly and severally liable to pay to and indemnify the County, the total cost to the County thereof, including but not limited to, engineering, legal, and contingent costs together with any damages, either direct or consequential, which the County may sustain on account of the failure of the Developer to carry out and execute all of the provisions of the Agreement to which this document is attached as an Exhibit. The County shall have the unconditional right to call upon the financial guarantee provided by the Developer described in this paragraph for the purposes specified and in the amounts enumerated in such guarantee.

3. PROCEDURES FOR REDUCTION OF FINANCIAL GUARANTEE UPON PARTIAL COMPLETION OF IMPROVEMENTS.

The developer may request a reduction in the amount of financial guarantee upon partial completion of the subdivision improvements. To qualify for a financial guarantee reduction, the completed improvements must be of a free-standing nature, functionally independent of any uncompleted improvements, and completed in substantial compliance with the subdivision improvement construction plans as determined by an inspection conducted by the County.

If the completed improvements meet the above requirements, the County Engineer will then estimate the cost of completing the remaining improvements. The Developer may then submit the following documents to the County for review and approval:

- (a) A revised financial guarantee in an amount of not less than 125 percent of the reviewing staff and/or County Manager's estimated cost of completing the remaining improvements.
- (b) A release of the original financial guarantee for execution by the County.
- (c) Documentation that the completed improvements and the land in which the completed improvements are located are subject to no liens, claims, or other encumbrances.

- (d) A bond or other suitable instrument guaranteeing the completed improvements against defective materials and workmanship for a period of three (3) years as set forth in Paragraph 7 of the Subdivision Improvement Agreement between the Developer and the County.

Upon receipt of the above-described documents in the forms acceptable to the County, the County shall issue a Certificate of Completion and Acceptance for the completed improvements and accept the revised financial guarantee tendered by the Developer.

APPENDIX N

SUBDIVISION IMPROVEMENTS BOND

(Form)

KNOW ALL MEN BY THESE PRESENTS: That we (NAME OF DEVELOPER (CORPORATION, PARTNERSHIP, ETC.)) as Principal, and (NAME OF SURETY) a corporation organized and existing under and by virtue of the laws of the State of _____ and authorized to do business in the State of New Mexico, as Surety, are held and firmly bound unto RIO ARRIBA COUNTY in the penal sum of (AMOUNT WRITTEN) Dollars, (\$ AMOUNT IN FIGURES) the payment of which well and truly to be made, and each of us bind ourselves, our and each of our heirs, executors, administrators, successors and assigns jointly, and severally, firmly by these presents.

NOW THEREFORE, the condition of the above obligation is such that:

WHEREAS, said subdivision is subject to the provisions and conditions of the ordinance of RIO ARRIBA COUNTY known as the Land Subdivision Regulations, which regulation interalia requires the installation of various road and other improvements by said Principal; and

WHEREAS, under said Subdivision Regulations the said Principal in (NAME OF SUBDIVISION) Subdivision is required "as part of his responsibility" to install and construct the following improvements:

(NAME OF IMPROVEMENTS, I.E., WATER, SEWER, PAVING, SIDEWALK)

All construction shall be performed in accordance with the Agreement to Construct Subdivision Improvements entered into between (NAME OF DEVELOPER) and RIO ARRIBA COUNTY, as recorded in the office of the Clerk of Rio Arriba County, New Mexico at Book Misc. (LEAVE BLANK), pages (LEAVE BLANK) through (LEAVE BLANK).

NOW, THEREFORE, if the above bounden Principal shall well and truly install and construct the said described improvements and facilities and perform the work hereinabove specified to be performed, all on or before (DATE) then this obligation shall be null and void.

_____ IN WITNESS WHEREOF, these presents have been executed this _____ day
of _____, 19_____.

NAME OF DEVELOPER
(Corporation, partnership, Etc.)

By: _____
(Name)

Its: _____
(Title)

NAME OF SURETY

By: _____
(Name) (Title)

ATTEST:

Subscribed and sworn to before me this _____ day of _____, 19_____.

Notary Public

My Commission Expires:

APPROVED AS TO FORM:

County Attorney

*NOTE: Power of Attorney for Surety needs to be attached.

APPENDIX O

_____ (DATE)
IRREVOCABLE LETTER OF CREDIT AND AGREEMENT NO. _____

AMOUNT: _____

Lorenzo Valdez
County Manager
Rio Arriba County
P.O. Box 1256
Española, New Mexico 87532

Dear _____:

At the request of _____ (Name), a _____ (Corporation/Partnership, etc.), we establish our irrevocable Letter of Credit in your favor for the account of _____ (Repeat Above), to the extent of and not exceeding _____ (Amount Written) _____ (\$ Figures).

This letter of Credit has been established to ensure the completion of _____ (Description of Activity), as provided by the Agreement between _____ (Repeat Name), and RIO ARRIBA COUNTY which Agreement is recorded in Book Misc. _____, at pages _____ to _____, of the records of the County of Rio Arriba, State of New Mexico (the "Agreement"). A Draft or Drafts for any amount up to, but not in excess of, _____ (Amount Written) _____ (\$ Figures) is/are available at sight at _____ (Name of Bank/City/State) _____ between _____ (Date) and _____ (Date), 19____.

When presented for negotiation, the Draft (s) is/are to be accompanied by the following document:

The County's notarized certificate stating that _____ (Repeat Name), has failed to comply with the terms of the Agreement, and also certifying that "the undersigned is County Manager of Rio Arriba County and is authorized to sign this statement", and also certifying that the amount of the Draft does not exceed 125% of the cost of completing the improvements specified in the Agreement.

We hereby agree with the drawer of Draft(s) drawn and under and in compliance with the terms of this credit that such Draft(s) will be duly honored on the presentation to the drawee if negotiated between _____ (Date) and _____ (Date), 19____.

The Draft(s) drawn under this credit must be endorsed and contain the clause: "Drawn under Letter of Credit and Agreement No. _____ of _____ (Name of Bank/City/State) _____, dated _____"; the amount of such Draft(s) must be endorsed on the reverse side thereof, and this Letter of Credit must be attached to that Draft which exhausts this credit.

This credit is subject to the Uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce, Publication No. 400.

This credit terminates at _____ o'clock p.m., New Mexico time, _____ (Date) , 19____.

NAME OF BANK

(Name and title of Authorized Person)

APPROVED AS TO FORM:

RIO ARRIBA COUNTY

County Attorney

APPENDIX P

COUNTY OF RIO ARRIBA

AMENDING THE RIO ARRIBA COUNTY INTERIM DESIGN AND DEVELOPMENT REGULATION SYSTEM, AS ADOPTED SEPTEMBER 31, 1995 AND RIO ARRIBA COUNTY SUBDIVISION REGULATIONS, AS AMENDED 1987.

Section 1. Short Title. Summary Plat Review Process and Procedure.

Section 2. Statement. This Summary Plat Review Process and Procedure is created pursuant to Section 47-6-9-11 NMSA 1978 (1995 Repl.) of the *New Mexico Subdivision Act*. All regulations, requirements and design standards set forth in the New Mexico Subdivision Act, Section 47-6-1 et seq. NMSA 1978 (1995 Repl.), Rio Arriba County Subdivision Regulations (i.e., Rio Arriba County Ordinance No. 1987) and Rio Arriba County Interim Design and Development Regulation System (Rio Arriba County Ordinance No. 1996-1) are applicable as well.

Section 3. Index

Section 1.	Short Title
Section 2.	Statement
Section 3.	Index
Section 4.	Definitions
Section 5.	Purpose
Section 6.	Qualifications
Section 7.	Pre-Application Conference
Section 8.	Plat Criteria
Section 9.	Fees
Section 10.	Plat Contents
Section 11.	Submittals
Section 12.	Disclosure Statement Contents
Section 13.	Design Standards
Section 14.	Review Procedure
Section 15.	Jurisdiction - as defined in Ordinance 1996-01
Section 16.	Variance - as defined and set procedure in Ordinance 1996-01
Section 17.	Severability
Section 18.	Amend and Effective Date

Section 4. Definitions.

- A. BOARD OF COUNTY COMMISSIONERS: As defined in the Subdivision Regulations - 1987 and Development Regulations Ordinance - 1996-01.

- B. COUNTY CLERK: As defined in the Subdivision Regulations - 1987 and Development Regulations Ordinance - 1996-01.
- C. COUNTY MANAGER: As defined in the Subdivision Regulations - 1987 and Development Regulations Ordinance - 1996-01.
- D. PLANNING DIRECTOR: Director of the Planning Department for Rio Arriba County.
- E. PLAT: As defined in the Subdivision Regulations - 1987 and Development Regulations Ordinance - 1996-01.
- F. SUBDIVISIONS: As defined in the Subdivision Regulations - 1987 and Development Regulations Ordinance - 1996-01.
 - 1. Type III - Any subdivision containing not more than twenty-four (24) parcels any one of which is less than ten (10) acres in size. Summary Review Procedure applies only to certain Type III Subdivisions containing five (5) or fewer parcels of land, unless the land within a subdivision has been previously identified as an area subject to unique circumstances or conditions that require additional review. If the smallest parcel is not less than three (3) acres, the Summary Review Procedure shall apply. If the smallest parcel is less than three (3) acres, the Summary Review Procedure shall be at the discretion of the County Commissioners.
 - 2. Type V - Any subdivision containing not more than twenty-four (24) parcels, each of which is ten (10) acres or more in size.
- G. AGENCY REVIEW:
 - 1. New Mexico State Engineer Office;
 - 2. New Mexico Environment Department;
 - 3. New Mexico Highway and transportation Department;
 - 4. Soil and Water Conservation District in which the proposed subdivision is located; and
 - 5. Any other public agencies the County considers necessary to determine whether there are adequate facilities to accommodate the proposed subdivision.

Section 5. Purpose. These regulations are adopted for the following purposes:

1. To provide for and protect the public health, safety, and general welfare of the County;
2. To guide the future growth and development of the County in accordance with any official plans adopted by the County;
3. To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population;
4. To protect and conserve the value of land throughout the County and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;
5. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the County, having particular regard to the avoidance of congestion in the streets and highways, and pedestrian traffic movements appropriate to the various uses of land and buildings; and to provide for the proper location and width of streets;
6. To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land; and
7. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout the County in order to preserve the integrity, stability, and beauty of the community and the value of the land.

Section 6. Qualifications. The following types of subdivisions shall be submitted to Rio Arriba County for approval under Summary Review Procedure:

- A. Type III containing five (5) or fewer parcels of land and all Type V.

Section 7. Pre-Application Conference. If necessary the subdivider or his agent may schedule a Pre-Application Conference with the designated County Planner for the purpose of becoming acquainted with the necessary requirements for subdivision review and approval.

- A. No fee shall be required for a Pre-Application Conference.
- B. Statements non-binding: Neither the subdivider or the county shall be bound by any statements or determinations made during the Pre-Application Conference.

Section 8. Plat Criteria.

- A. Summary Review Plats submitted to the county for approval shall be approved or disapproved by the County Planning Department within thirty (30) days of the date the Summary Review Plat is deemed complete. The Board of County

Commissioners has delegated the County Planning Director the authority to approve any subdivision containing five (5) or less parcels of a Type III Subdivision, unless the land within the proposed subdivision has been previously identified in the County as an area subject to unique circumstances or conditions that require additional review, or any Type V Subdivision under Summary Review.

- B. At the County Planning Director's discretion certain Type III or Type V subdivision plats may be referred to the Rio Arriba Planning and Zoning Committee or to the Board of County Commissioners if in the opinion of the Planning Director, the proposed subdivision would be detrimental to the health, safety, and welfare of the public, not compatible with the surrounding area or is controversial due to residents concerns. The County Planning Department may impose any conditions or require any improvements necessary to promote the health, safety, and welfare of the public.
- C. The Planning Director at his discretion may refer the proposed subdivision plat to any state or public agency that the county deems necessary for review and comment. After review and comment, the County Planning Director may impose additional conditions for summary plat approval or require additional improvements to be constructed upon the proposed subdivision or if the State Engineer, State Department of Environment, State Highway and Transportation Department, the applicable Soil and Water Conservation District or any other public agency determines that such additional conditions or improvements are reasonably necessary to promote the health, safety or the general welfare of the public.

- D. The subdivider, as a condition, preceding approval of the Summary Review Plat, shall enter into an agreement with the county, on mutually agreed terms, to thereafter complete the improvements at the subdividers expense.
- E. Improvements must be completed prior to recordation of the Summary Review Plat or a bond or letter of credit in an amount sufficient to complete all improvements must be submitted along with an engineers estimate for said improvements.
- F. No subdivision may be created in Rio Arriba County without an approved plat of survey. Property may not be subdivided by deed alone.

Section 9. Fees. A fee will be assessed of \$5.00 per plat for boundary surveys and \$10.00 per lot for Type Three (3) and Type Five (5) subdivisions.

Section 10. Plat Contents.

- A. Final plat acknowledgment - affidavit: Every final plat shall contain a statement that the land being subdivided is subdivided in accordance with the final plat. The final plat shall be acknowledged by the owner or subdivider or the authorized agents in the manner required for the acknowledgment of deeds. Every plat submitted to the County Clerk shall be accompanied by an affidavit of the owner and subdivider or their authorized agents stating whether or not the proposed subdivision lies within the subdivision regulation jurisdiction of the county. A copy of the final plat shall be provided to every purchaser, lessee, or other person acquiring an interest in the subdivided land prior to sale, lease, or other conveyance.
- B. The final plat shall contain a certificate stating that the Board of County Commissioners accepted, accepted subject to improvements or rejected, on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication, and whether roads have or have not been accepted by the county for maintenance and/or public use.
- C. The original drawing of the Summary Review Plat shall be submitted in waterproof ink on Mylar along with one copy. Summary Review Plats shall be 24" X 36" and shall be drawn at a scale of one-inch equals one hundred feet (1" = 100') or at another approved scale as determined by the County Planning Director.

- D. A licensed surveyor is required to prepare the Summary Review Plat according to the minimum standards for land surveys in New Mexico, as amended.
- E. The final Summary Review Plat shall contain the following:
 - 1. Vicinity map;
 - 2. Indicate the lots to be created;
 - 3. Refer to permanent monuments;
 - 4. Accurately describe each lot, number each lot in progression, give its dimensions and the dimensions of all land dedicated for public use or for the use of owners of lots fronting or adjacent to the parcel;
 - 5. Show improvements including, but not limited to, the location of liquid waste disposal systems, wells structures and roads;
 - 6. Be certified by a land surveyor, who shall be licensed in accordance with the laws of the State of New Mexico, certifying to the accuracy of the survey and plat, and that the same has been prepared by him;
 - 7. Contain a certification of title showing that the applicant is the owner of the land, and that the lots created by the plat are created with the free consent and in accordance with the desires of the owner, which certification shall be signed by the owner;
 - 8. Indicate its title, scale, true and magnetic north arrows and date;
 - 9. Provide a signature line for approval by the Planning Department;
 - 10. Indicate required dimensions to the nearest one hundredth of a foot and angles to the nearest minute.
 - 11. Signature line for County Assessor/Treasurer verifying that property taxes are paid up to date.
 - 12. The plat shall provide for a minimum of seven (7) foot utility easement on all sides and rear lot lines.
 - 13. Indexing information for County Clerk.

Section 11. Submittals.

- A. The subdivider or his authorized agent shall submit the Summary Review Plat along with one (1) copy. It shall be accompanied by the following:
1. Warranty deed or real estate contract identifying the owner of the property proposed to be subdivided;
 2. Previous plats of the property if any;
 3. A history of any previous divisions of land which this parcel is a portion, covering the previous three (3) years.; If the history is unknown by the property owner, a title search may be necessary;
 4. A completed application provided by the County Planning and Zoning Department;
 5. A check or other appropriate payment made payable to Rio Arriba County in an amount sufficient to cover the fees imposed for Summary Plat Review and recording;
 6. Disclosure statement;
 7. Any additional information deemed necessary by the Planning Director

Section 12. Disclosure Statement Contents.

- A. Prior to the time of purchase or lease, the subdivider must provide to the prospective purchaser or lessee a written disclosure statement. It shall include:
1. The name of the subdivision;
 2. Name and address of the subdivider and of the person in charge of sales or leasing;
 3. A statement disclosing encumbrances on the property and how the lot purchaser's interest in the property will be protected in the event of foreclosure of the property or default by the subdivider on any of his obligations;
 4. The means of water delivery;

5. The means for liquid waste disposal;
6. The means for solid waste disposal;
7. Lots located on slopes in excess of eight (8) percent.
8. Lots located within a flood plain, flood fringe, and floodway;
9. Suitability of soils for residential construction;
10. The type and installation date of any storm drainage systems or other improvements;
11. A statement disclosing the responsibility for maintenance of the roads and other improvements.

Section 13. Design Standards. Water supply requirements: To satisfy the requirements presented herein, subdivisions qualifying for Summary Review are only required to submit a minimal amount of data sufficient to make a determination that the subdivider can fulfill the proposal in the disclosure statement concerning water. Sources of data include databases and reports prepared by the New Mexico Bureau of Mines and Mineral Resources, the U.S. geological Survey, private consultants, and well logs submitted to or by the State Engineer Office.

- A. If the source of water supply will be an existing community water system or municipal water system, the subdivider shall submit a water availability assessment containing the following information:
 1. Name of the utility proposed as the source of supply;
 2. Letter of intent from the utility that they are ready, willing, and able to provide the maximum annual water requirement for the subdivision.
- B. If the subdivider proposes that the source of water shall be individual domestic wells or shared wells to be approved by the State Engineer pursuant to Section 72-12-1 NMSA 1978, the subdivider shall submit a water availability assessment containing the following information:
 1. At least one well log from an on-site well or from an existing nearby well completed in geologic conditions representative of the conditions within the proposed subdivision.

2. A description of the water bearing formation including a statement of the maximum and minimum depths to water in the subdivision and the basis for these statements.
3. A statement of the estimated yield of wells in gallons per minute based upon well logs from existing nearby wells.

Design and development standards for roads, liquid waste disposal, solid waste disposal, and terrain management will be imposed pursuant to the regulations set forth in the Rio Arriba County Subdivision Regulations, Rio Arriba County Interim Design and Development Regulation System, Environment Department Regulations, and/or any other County or State regulations and requirements.

Section 14. Review Procedure.

- A. Plat deemed complete: On receipt of the application, fees, summary review plat, and supporting documentation, the County Planner shall review all materials in order to determine if the plat is ready to begin the review process. If there are no deficiencies, the Summary Review Plat will be deemed complete for review. If the Summary Review Plat is incomplete or does not comply with the submittal requirements, the subdivider shall be notified and given a maximum time period of thirty (30) days to correct the deficiencies and return the Summary Review Plat for consideration.
- B. Lot requirement review: The Planning and Zoning Department shall review the location of the lots indicated on the plat and if a lot is located in a special Review District, will inform the applicant of any additional submittals or reviews required and make the applicable review.
- C. Environmental review: The Planning and Zoning Department shall inform the applicant of any additional submittals and make the reviews required: Flood hazards, liquid waste disposal, roads, easements, water availability, and quality requirements.
- D. Approval: After a decision approving an application has become final, the Planning and Zoning Department shall stamp and sign the plat submitted and shall record the plat and disclosure statement in the records of the County Clerk. The original plat will be returned to the subdivider or his authorized agent and the Planning and Zoning Department will retain the copy for their file.

Section 15. Jurisdiction. As defined in Ordinance 1996-01.

Section 16. Variance. As defined and procedure set in Ordinance 1996-01.

Section 17. Severability. The provisions of these Regulations are severable, and if any provision, sentence clause, section, or part hereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of these Regulations or their application to other persons or circumstances. It is hereby declared to be the intent of the County that these Regulations would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included herein, and if the person or circumstances to which these Regulations or any part thereof are inapplicable had been specifically exempted therefrom.

Section 18. Amend and Effective Date. These Regulations amend Rio Arriba County Subdivision Regulations 1987 and Rio Arriba County Development Regulations Ordinance 1996-01. These Regulations shall become effective on the 30th day after approval.

PASSED, ADOPTED AND APPROVED THIS _____ day of _____,
19____.

BOARD OF COUNTY COMMISSIONERS
RIO ARRIBA COUNTY, NEW MEXICO

Chairman

Member

Member

ATTEST:

County Clerk

AMENDING THE RIO ARRIBA COUNTY INTERIM DESIGN AND DEVELOPMENT REGULATION, AS ADOPTED SEPTEMBER 31, 1995 AND RIO ARRIBA COUNTY SUBDIVISION REGULATIONS, AS AMENDED 1987.

WHEREAS, 47-6-9-11 NMSA 1978 provides that the Board of County Commissioners of each County shall regulate subdivisions within the County's boundaries, and

WHEREAS, pursuant to Legislative House Bill 1006, Counties are allowed to adopt Subdivision Summary Review Procedures, and

WHEREAS, the Summary Review Procedure will assure compliance with the provisions set forth in Legislative House Bill 1006.

BE IT ORDAINED BY THE RIO ARRIBA BOARD OF COUNTY COMMISSIONERS ON THIS _____ DAY OF _____, 1996 THAT THE SUMMARY REVIEW PROCEDURE IS INCORPORATED INTO THE RIO ARRIBA COUNTY INTERIM DESIGN AND DEVELOPMENT REGULATION SYSTEM AND RIO ARRIBA COUNTY SUBDIVISION REGULATIONS AND SHALL BECOME EFFECTIVE THIRTY (30) DAYS SUBSEQUENT TO DATE OF APPROVAL.

BOARD OF COUNTY COMMISSIONERS

Alfredo L. Montoya, Chairman/Commissioner

Moises A. Morales, Jr., Commissioner

Ray Tafoya, Commissioner

ATTEST:

David Chavez, County Clerk

AMENDING THE RIO ARRIBA COUNTY SUBDIVISION REGULATIONS, AS ADOPTED OCTOBER 17, 1973 AND RIO ARRIBA COUNTY SUBDIVISION REGULATIONS, AS AMENDED 1987, AND JUNE 1997.

WHEREAS, 47-6-9-11 NMSA 1978 provides that the Board of County Commissioners of each County shall regulate subdivisions within the County's boundaries, and

WHEREAS, pursuant to the New Mexico Subdivision Act, Counties are allowed to adopt Subdivision Regulations, and

WHEREAS, the Subdivision Regulations will assure compliance with the provisions set forth in the New Mexico Subdivision Act.

BE IT ORDAINED BY THE RIO ARRIBA BOARD OF COUNTY COMMISSIONERS ON THIS _____ DAY OF _____, 1997 THAT THE NEW MEXICO SUBDIVISION ACT IS INCORPORATED INTO THE RIO ARRIBA COUNTY SUBDIVISION REGULATIONS AND SHALL BECOME EFFECTIVE THIRTY (30) DAYS SUBSEQUENT TO DATE OF APPROVAL.

BOARD OF COUNTY COMMISSIONERS

Alfredo L. Montoya, Chairman/Commissioner

Moises A. Morales, Jr., Commissioner

Ray Tafoya, Commissioner

ATTEST:

David Chavez, County Clerk

APPENDIX Q

Rio Arriba County Subdivision Land Regulations

COUNTY OF RIO ARRIBA AGRICULTURAL PROTECTION AND ENHANCEMENT ORDINANCE

AN ORDINANCE ESTABLISHING THE AGRICULTURAL PROTECTION AND ENHANCEMENT SUBDIVISION CRITERIA AS APPENDIX Q OF THE LAND SUBDIVISION REGULATIONS AND AMENDING ORDINANCE 2000-01, RIO ARRIBA COUNTY DESIGN AND DEVELOPMENT REGULATION SYSTEM.

Section 1. Short Title. This Ordinance shall be referred to as the Agricultural Protection and Enhancement Ordinance.

Section 2. Authority. This Ordinance is adopted pursuant to §§47-6-1 through 47-6-29 NMSA 1978 (1995 Repl.) and §4-37-1 NMSA 1978 (1992 Repl.) and §§3-21-1 through 3-21-26 NMSA 1978 (1999 Repl.), §§NMSA through 47-9-7NMSA 1978 (1995 Repl.) and §§4-57-1 through 4-57-3 NMSA 1978 (1992 Repl.).

Section 3. Purpose. The purpose of this Ordinance is to protect and enhance the agricultural lands, the acequia systems, and the ground and surface water resources of Rio Arriba County by establishing criteria for review and approval of land use zoning, subdivisions, or division of land, located within irrigated agricultural lands. The specific purposes are:

1. To promote the clustering of lots, homes and structures on irrigated agricultural land in order to protect agricultural uses in Rio Arriba County while accommodating new development.
2. To ensured the integrity and conservation of the irrigated agricultural land and water resources of Rio Arriba County for future generations.

3. To minimize and reduce potential contamination of underground and surfaces water supplies from the proliferation of septic systems associated with new development.
4. To protect the water supply of Rio Arriba County by regulating land use zoning, the development of subdivisions or division of land, homes, private and community wells and liquid wastewater disposal systems on irrigated agricultural land where the environmental impacts from development are greater.
5. To require more compact development with open space set aside to protect the historic settlement patterns and important visual qualities which made Rio Arriba County a special place to live.
6. To protect the agricultural uses from the negative impacts of development and from uses that are not compatible with irrigated agriculture.
7. To create development, land use zoning and subdivision or division of land criteria that allows for harmonious development within irrigated agricultural land.
8. To provide for and protect the public health, safety and general welfare.

Section 4. Definitions. In addition to the definitions included in Article III, Section 1 of the Rio Arriba County Subdivision Regulations and Appendix P Summary Plat Review Process and Procedure, the following terms shall have the following meanings.

Advanced Liquid Disposal System – Any treatment system, which stabilizes liquid waste through the addition of supplemental air or dissolved oxygen by means of mechanical or diffused aeration.

Agricultural Open Space – The area designated on the plat to be set aside as permanent open space and such area shall not be further divided.

Buildable Area – The area designated on the plat, which may be used and subdivided for building purposes.

Cluster Subdivision – A subdivision or division of land that provides buildable lots grouped together so that permanent open space on the irrigated agricultural land is maintained.

Impervious Surface – Impervious surfaces are those which do not absorb water. They consist of all buildings, parking areas, driveways, road, sidewalks, and any areas of concrete or asphalt. In the case of lumberyards, areas of stored lumber constitute impervious surface.

Irrigated Agricultural Land – This definition includes: lands listed as “Irrigated Agricultural Land” by the Rio Arriba County Assessor on the effective date of this Ordinance, those lands identified by hydrographic survey which will describe if the said land was historically been used for irrigated agriculture or those land which are shown to be irrigated in the records of the acequia.

Liquid Waste Disposal System – A generally recognized system for disposing of the discharge from a liquid waste treatment unit and includes, but is not limited to seepage pits, drain fields, evaporation systems and mounds, and filters, and approved surface applications, as defined by the New Mexico Environment Department.

Maximum Development Potential – The greatest number of new lots that may be created within the buildable area.

Primary Liquid Waste Disposal System – A liquid waste treatment process that takes place in a treatment unit and allows those substances in wastewater that readily settle or float to be separated from the water being treated, as defined by the New Mexico Environment Department. Primary Liquid Disposal Systems are associated with conventional wastewater septic systems used in lots $\frac{3}{4}$ acre and larger.

Secondary Liquid Waste Disposal System – A wastewater treatment system process used to convert dissolved or suspended materials into a form more readily separated from the water being treated. The process is commonly a biological treatment process followed by settling a clarification, as defined by the New Mexico Environment Department.

Shared Well – A well that is shared by more than one lot.

Shared Alternative Liquid Waste Disposal System – A liquid waste disposal system shared among the lots using a secondary or advanced waste water system, depending on the design of the subdivision or division of land and the approval of the New Mexico Environment Department.

Section 5. Cluster Development Agricultural Overlay Zone.

1. Article II, Section III of the Rio Arriba County Design and Development Regulation System is amended to include the Cluster Development Agricultural Overlay Zone.
2. All lots defined as “irrigated agricultural land” in this ordinance.
3. The purpose of the Cluster Development Agricultural Overlay Zone is to provide additional site design criteria for the creation of a new lot or lots and new development, in addition to the requirements of the base County Rural Agricultural District.

Section 6. Maximum Development Potential Within the 30% “Buildable Area”

Existing lots within the Cluster Development Agricultural Overlay Zone shall have a maximum development potential as follows:

<u>Existing Lot Size</u>	<u>Potential Number of New Lots Created</u>
Less than 1.5 acre	1 lot
1.5 to 2.99 acres	1 to 2 lots
3.0 to 3.99 acres	1 to 3 lots

Section 8. Permitted Uses.

1. Permitted Uses within the “agricultural open space” shall be limited to agriculture, liquid waste disposal systems required for development in the “buildable area”, parks and recreation areas, and accessory structures associated with agricultural uses such as a greenhouse, garage for farm equipment, corral, barn or other similar uses and structures.
2. A disclosure statement shall be noted on the plat which states that the uses in the “agricultural open spaces” are limited to agriculture, liquid waste disposal systems required for development in the “buildable area”, parks and recreation areas, and accessory structures associated with agricultural uses such as a greenhouse, garage for farm equipment, corral, barn or other similar uses and structures.

Section 9. Design Criteria.

1. The minimum lot size within the “buildable area” shall be 7,500 net square feet provided a liquid waste disposal system is permitted by the New Mexico Environment Department Lot size requirements standards shall be required as listed within Section V, Subsection E through J of the Design and Development Regulation System.
2. When a shared alternative liquid waste disposal system is proposed, a 20 foot wide ingress/egress easement connecting the “buildable area” to the “agricultural open space area” shall be designated on the plat.
3. A shared well shall be required for lots less than $\frac{3}{4}$ acre in size within the “buildable area”. The appropriate easements shall be provided.
4. Individual domestic wells shall be allowed for lots which are $\frac{3}{4}$ acre or larger within the “buildable area”.

5. Impervious surfaces within the “buildable area” shall be minimized. Shared driveways and access shall be encouraged.
6. All other development standards set forth in the Rio Arriba County Design and Development Regulation System shall apply. Design flexibility is encouraged to accomplish the purposes of the Cluster Development Agricultural Overlay Zone.

Section 10. Plat Criteria and Contents for Subdivisions within the Cluster Development Agricultural Overlay Zone.

1. All of the plat submittal requirements and review procedures contained in the Rio Arriba County Land Division Regulations shall apply to applications for subdivisions or land division within the Cluster Development Agricultural Overlay Zone.
2. In addition to the standard submittal requirements, the plat shall contain the information required in Sections 7, 8 and 9 above.
3. Applicants shall be responsible for notifying the appropriate acequia commission in writing of the proposed subdivision; as to the name of the proposed subdivision, or land division, the number of lots created, and new owners or parciantes created. The applicant shall provide proof of such notice to the County Planning Department by receipt of certified mail.
4. Before approval of the subdivision, division of land, or development permit, the applicant must transfer the water right, which is being displaced, by the “buildable area” and record this transfer of water right with the State Engineer, pursuant to its regulations, as well as with the office of the County Clerk. In addition, if any acequia commission requires transfer of water right approval, then written approval from the appropriate acequia commission shall be submitted to the County Planning Department.

Section 11. 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 County.
3. Deemed neither to limit nor repeal any other powers granted under state statutes.
4. Not deemed to repeal or limit any other ordinances or regulations adopted by the County unless expressly so stated herein.

Section 12. Application.

This Ordinance shall apply to all applications submitted to the County for subdivision or division of land approval after the effective date of this Ordinance.

Section 13. Warning and disclaimer of liability.

This Ordinance shall not create liability on the part of the County or on any officer or employee thereof for any damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 14. Penalty.

A person who violates any provisions of this Ordinance shall be subject to the penalty provisions contained in §§47-6-27 NMSA 1978 and 47-6-27.1 NMSA 1978. Each day of violation is considered a separate offense. In addition to these criminal penalties, the County may seek injunctive relief, mandatory injunctive relief, recession, and restitution, or civil penalties as provided by state law. This section shall not limit the County's right to seek other relief as the law permits.

Section 15. Severability.

The provisions of this Ordinance are severable, and if any provision, sentence, clause, section, or part hereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of these regulations or their application to other persons or circumstances. It is hereby declared to be the intent of the County that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section or part had not been included herein.

Section 16. Effective Date.

The Board of County Commissioners hereby declares that it is necessary for the public peace, health and safety that this Ordinance takes effect immediately after passage. The effective date of this Ordinance shall be the date when it is recorded in the book kept by the County for that purpose and authenticated by the signature of the County Clerk.

PASSED, AMENDED AND APPROVED THIS _____ day of _____, 2002

BOARD OF COUNTY COMMISSIONERS
RIO ARRIBA COUNTY

Alfredo Montoya,
District II Commissioner, Chairman

Ray Tafoya,
District I Commissioner

Moises Morales
District III Commissioners

Fred Vigil, County Clerk