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ORDINANCE 2005-8
TAOS COUNTY, NEW MEXICO
REPEALING AND ABOLISHING
2004-3 AND 1998-4

AN ORDINANCE ABOLISHING TAOS COUNTY ORDINANCE 2004-3 AND 1998-4 AND ADOPTING NEW SUBDIVISION REGULATIONS FOR TAOS COUNTY.

WHEREAS, the Board of County Commissioners of Taos County (the "Commission") is the duly authorized governing body of Taos County (the "County"), a New Mexico political subdivision; and

WHEREAS, the Commission has the duty and responsibility to adopt Ordinances for the County pursuant to § 4-37-13, NMSA 1978 and the duty and responsibility for the management of the government of the County pursuant to § 4-38-1 through 4-38-42, NMSA 1978; and

WHEREAS, the Commission has found it to be in the best interest of the residents of Taos County to adopt new Subdivision Regulations for Taos County.

THEREFORE, BE IT ORDAINED THAT THE BOARD OF COUNTY COMMISSIONERS OF TAOS COUNTY, NEW MEXICO is adopting the attached Taos County Subdivision Regulations dated August 1, 2005 and hereby rescinds Taos County Ordinances 2004-3 and 1998-4.

PASSED, ADOPTED AND APPROVED THIS 1st **DAY OF August, 2005 EFFECTIVE September 1, 2005.**

BOARD OF COUNTY COMMISSIONERS
OF TAOS COUNTY, NEW MEXICO

Gabriel Romero, Chairman

Don Francisco Trujillo II, Vice-Chairman

Nicklos Jaramillo, Commissioner

Emanuel Pacheco, Commissioner

Virgil Martinez, Commissioner

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ATTEST:

Elaine Montaño
Elaine Montaño, Taos County Clerk

COUNTY CLERK AND RECORDER
RECORDER SEAL
COUNTY OF TAOS

APPROVED AS TO FORM:

Tom Blankenhorn, County Attorney

Vote Record:

G. Romero	yes	no	abstain	absent
E. Pacheco	yes	no	abstain	absent
N. Jaramillo	yes	no	abstain	absent
D.F. Trujillo II	yes	no	abstain	absent
V. Martinez	yes	no	abstain	absent

TAOS COUNTY CLERK
RECORDER SEAL
TAOS

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COUNTY OF TAOS
NEW MEXICO

ORDINANCE 2005-8

SUBDIVISION REGULATIONS

Effective Date: September 1, 2005

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TAOS COUNTY SUBDIVISION REGULATIONS
PROPOSED ORDINANCE NO. 2005-8

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PROPOSED TAOS COUNTY SUBDIVISION REGULATIONS

ARTICLE 1. GENERAL PROVISIONS

Section 1.1. Title

This ordinance, including all articles and appendices, shall be known and may be cited as the "Taos County Subdivision Regulations" and shall be referred to elsewhere herein as "these Regulations."

Section 1.2. Authority

These Regulations are created pursuant to the enabling authority set forth in the laws of the State of New Mexico, including where applicable, but not limited to, the following sections of the New Mexico Statutes Annotated, 1978, as they may be amended:

NMSA 1978, Sections 4-37-1 through 4-37-9 (powers granted to counties, including powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort, and convenience of a county and its inhabitants);

NMSA 1978, Sections 4-57-1 through 4-57-3 (planning for the purpose of guiding development);

NMSA 1978, Sections 47-6-1 through 47-6-29 (subdivision);

NMSA 1978, Sections 47-5-1 through 47-5-8 (land subdivision);

NMSA 1978, Section 3-18-6 (building construction);

NMSA 1978, Section 3-18-7 (flood-prone areas);

NMSA 1978, Section 3-18-10 (sanitary facilities);

NMSA 1978, Sections 3-19-1 through 3-19-12 (planning and platting);

NMSA 1978, Sections 3-21-1 through 3-21-12 (zoning);

NMSA 1978, Sections 3-22-1 through 3-22-5 (historic district zoning);

NMSA 1978, Sections 3-39-16 through 3-39-27 (airport zoning);

NMSA 1978, Section 3-49-1 (streets);

NMSA 1978, Section 18-6-1 (the Cultural Properties Act);

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NMSA 1978, Sections 47-7A-1 through 47-7D-20 (New Mexico Condominium Act);

NMSA 1978, Sections 3-53-1 through 3-53-5 (water use and water facilities);

NMSA 1978, Section 6-27-1 through 6-27-9 (Affordable Housing Act).

Section 1.3. Purpose

These Regulations are adopted for the following purposes:

A. To provide for and protect the public health, safety, and general welfare of the County;

B. To guide the future growth and development of the County in accordance with ordinances adopted by the Board of County Commissioners;

C. 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;

D. 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;

E. 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 to facilitate pedestrian traffic movements appropriate to the various uses of land and buildings; and to provide for the proper location and width of streets;

F. 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;

G. To prevent the pollution of air, soil and water, and erosion of soil; 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;

H. To protect natural vegetation, drainage courses, historical sites and structures, and similar community assets; and

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I. To provide for the preservation, protection, and enhancement of structures, sites and objects of historical significance within Taos County.

J. To regulate merger of contiguous parcels in common ownership for the purpose of enforcing minimum zoning or subdivision standards on the parcels, when deemed necessary to advance the purposes of these Regulations.

Section 1.4. Jurisdiction

These Regulations shall govern all subdivision of land not within the boundaries of municipalities but within the County. The County and a municipality shall exercise concurrent jurisdiction over the territory within the platting jurisdiction of both the County and the municipality, as provided in Sections 3-21-9, NMSA 1978, and as otherwise provided by State law.

Section 1.5. Written Decisions

Whenever the Board of County Commissioners or its delegate is required by these Regulations to make a decision or recommendation after a public hearing, the decision or recommendation shall be in writing and supported by findings of fact and conclusions of law that are sufficient for meaningful review.

Section 1.6. Interpretation

The provisions of these regulations are held to be minimum requirements. Whenever any provisions of these Regulations conflict with other laws, rules, regulations, covenants, or ordinances, the more restrictive shall govern. These Regulations shall be construed broadly to promote the purposes for which they were adopted.

Section 1.7. Authority of Planning Department Director to Create Forms and Documents.

The Planning Director shall have the authority to prepare all forms and documents necessary to fulfill the purposes of these Regulations. If required by the Planning Director, subdividers shall complete all applicable Planning Department forms and documents.

Section 1.8. Computation of Time

In computing any period of time prescribed or allowed by this ordinance, the day of the entry of the ruling or decision or other event from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed is less than eleven (11) days, intervening Saturdays, Sundays and legal holidays shall be

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excluded in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, or, when the act to be done is the filing of a paper with the Planning Department, a day on which weather or other conditions have made the Planning Department inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. As used in this rule, "legal holiday" means Taos County holidays as determined by the Taos County Board of Commissioners.

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ARTICLE 2. DEFINITIONS AND WORD USAGE

The definitions of terms listed below shall guide the interpretations of these regulations. Where a word in these Regulations is not defined, the Planning Director shall be responsible for its proper definition.

Words used or defined in one tense or form shall include other tenses. Words in the singular form shall include the plural form. Words in the plural form shall include the singular form. Words used in the masculine form shall include the feminine form, and words in the feminine form shall include the masculine form. The word "shall" is mandatory. The word "may" is permissive. The term "person" includes individuals, firms, corporations, associations, trusts, and other similar interests.

ABANDONMENT – The surrender, desertion, relinquishment, disclaimer, or cession of property rights; voluntary relinquishment of all right, title, claim and possession, with the intention of not reclaiming it; the giving up of a thing absolutely, without reference to any particular person or purpose, as vacating property with the intention of not returning, so that it may be appropriated by the next comer or finder. It includes both the intention to abandon and the external act by which the intention is carried into effect.

ABUT OR ABUTTING – Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

ACCEPTANCE – Acceptance of any dedicated land within a subdivision by the County, including roads for public use and/or for maintenance.

ACCESS – A means of entrance to or exit from property.

ACEQUIA – Physically, an acequia is a ditch that transports surface water from its source, i.e. a stream, a watershed, a river, or a reservoir, to agricultural fields for irrigation. An acequia is also a form of public corporation and qualifies as a political subdivision of the State. Like all other political subdivisions, acequias are competent to exercise whatever powers the legislature has delegated to them, expressly or by necessary implication.

ACT – As used in these Regulations, Act means the New Mexico Subdivision Act, NMSA 1978, Sections 47-6-1 through 47-6-29.

ADJACENT TO - Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

AFFORDABLE HOUSING – Any housing development built to benefit those whose income is at or below eight (80) percent of the area median income, and whose occupants will pay no more than thirty (30) percent of their gross monthly income towards such housing; synonymous with lost cost housing.

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ALLEY – A secondary means of access to abutting property.

APPEAL – The process for obtaining review of a decision pursuant to these Regulations.
APPELLANT – A person who appeals a decision made pursuant to these Regulations.

APPLICANT – A person submitting an application for consideration of a subdivision or claim of exemption.

AREA OF NOTICE MAP – Taos County Assessor's parcel map that shows all parcels within one thousand (1,000) feet of the exterior boundaries of the property proposed to be subdivided.

BLOCK – The distance measured along a street from centerline to centerline of intersecting streets.

BOARD OF COUNTY COMMISSIONERS – The elected governing body of Taos County, New Mexico.

BOND – A written obligation in the form of a surety, collateral agreement or security agreement, drawn in favor of Taos County, by a subdivider, whether by himself or by a third party, guaranteeing the performance of certain acts as required by the Board of County Commissioners, whereby the subdivider either agrees to perform certain acts or indemnify the County for the subdivider's failure to perform said acts.

BUILDABLE AREA – The land area of a given parcel that is potentially available for construction after all zoning and other county requirements have been fulfilled.

BUILDING – Any structure built or intended for the support, shelter or enclosure of persons, animals or property of any kind. When any portion of a building is completely separated from any other portion thereof by a division wall without opening or by a firewall, except interior firewalls, then each portion is a building.

BUILDING, ACCESSORY – A building that is subordinate to and serves a principal structure or use, and is located on the same parcel as the principal structure.

BUILDING HEIGHT – The vertical distance from average finished grade to the top of the highest roof beams on a flat or shed roof, the deck level of a mansard roof, and the average distance between the eaves and ridge level for gable, hip and gambrel roofs.

BUILDING PERMIT – A certificate issued by the Planning Director to an applicant for the construction of a new building, or for repairs, or for alterations to an existing structure.

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BUILDING, PRINCIPAL – The building in which the principal use is conducted on the parcel.

BUILDING SETBACK LINE OR BUILDING LINE – The line that is located opposite the lot line for the minimum yard depth distance required by these Regulations, and in front of which no structure shall be permitted, erected or placed, unless otherwise expressly permitted by this ordinance.

CERTIFICATE OF OCCUPANCY – A certificate issued by the Planning Director allowing a building to be occupied.

CERTIFICATED UTILITY – A utility that operates under the conditions of a certificate of convenience and necessity issued by the New Mexico Public Regulations Commission.

CLUSTER HOUSING DEVELOPMENT – A development design technique that concentrates buildings in specific areas on a site and requires the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

COLLATERAL – Property or bond which is pledged as security for performance of any promises made by a subdivider in a disclosure statement, or for any act required to be done by the Taos Board of County Commissioners.

COMMON LIQUID WASTE TREATMENT SYSTEM – A liquid waste system that provides liquid waste management to more than one lot by an entity or person(s).

COMMON PROMOTIONAL PLAN – 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 a common unit or by a common name. See also, Appendix I, Attachment "1."

COMMON WATER SYSTEM – A water supply system that provides water to more than one lot by an entity other than the individual lot owner.

COMMUNITY WATER SYSTEM – A public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. (40 CFR 141.2) A community water system relies upon surface and/or groundwater diversions other than wells permitted by the State Engineer under Section 72-12-1 NMSA, and consists of a common storage and/or distribution facility for the delivery of water to multiple service connections.

COMPREHENSIVE PLAN – A plan adopted by the Board of County Commissioners presenting the data, consideration and policies for the physical, social, economic, and environmental development of the unincorporated areas of Taos County.

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CONTIGUOUS -- Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

CONSTRUCTION, START OF – The duly permitted permanent placing or erection of construction materials into position, including, but not limited to, site grading or improvements for roadways. When excavation, or removal of an existing structure has commenced in preparation for new construction, such is construction.

COUNTY – Taos County, New Mexico.

COUNTY CLERK – The County Clerk of Taos County, New Mexico.

COUNTY ENGINEER – The County Engineer for Taos County, New Mexico, whether employed or contracted on a consulting basis.

COUNTY MANAGER – The County Manager of Taos County, New Mexico.

COVER DENSITY - The estimated percentage of canopy and basal cover for each vegetative type; canopy cover being the estimated percentage of trees and shrubs that would shade the ground at midday and basal cover being the percentage of grasses, rocks, litter, and desert pavement in direct contact with the ground.

CRITICAL MANAGEMENT AREA -- A bounded area, if and when designated by the Office of the State Engineer and shown on the Taos County Planning Department Critical Management Area Map, that requires heightened water resource protection because water resources may be inadequate to sustain well production. (On the date of adoption of these Regulations, no critical management areas are designated in Taos County.)

CUL-DE-SAC – A street with only one outlet and having an appropriate terminus for the safe and convenient reversal of traffic movement.

DEDICATION – The appropriation of land, or an easement for the use of the public and accepted for such use by or on behalf of the public.

DEFENSIBLE SPACE -- An area either natural or man-made, where material capable of allowing fire to spread unchecked has been treated, cleaned or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur.

DESIGN FLOW – The quantity of liquid waste to be received by a liquid waste system.

DEVELOPER – Any person engaged in developing or improving real property for use, occupancy, sale, lease, or other conveyance.

DEVELOPMENT – The making of any material change in the use or appearance of any structure or land, including construction, reconstruction, alteration, repair, addition to or location of a structure.

DISCLOSURE STATEMENT – (1) A written presentation containing such information as the Board of County Commissioners may require to allow a prospective purchaser or lessee to make an informed decision about the purchase or lease of land; (2) A written statement required to be given to persons acquiring an interest in subdivided land, which complies with the requirements of §47-6-17, NMSA 1978.

DOMESTIC WELL -- Apparatus for the diversion of groundwater for domestic use as governed by Section 72-12-1, NMSA 1978.

DOUBLE FRONTAGE LOT – A continuous lot of the same depth as the width of a block that is accessible from both of the streets upon which it fronts.

DRAINAGE – The removal of surface water or groundwater from land by grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary for water supply preservation and/or prevention or alleviation of flooding.

DRAINAGE CHANNEL -- Any significant indentation into which storm water flows along a defined course.

DRAINAGE COURSE – A natural or constructed watercourse or indentation for the drainage of surface water.

DRAINAGE EASEMENT – An area of property that is reserved for the drawing off or flowing off of water.

DRIVEWAY – That area of land required to provide vehicular access from the street to the buildings or other improvements.

DUE PUBLIC NOTICE – Notification for public hearing pursuant to the provisions in Article 4, Section 4.8 of these Regulations.

DWELLING – A building designed exclusively for residential purposes, including single family and multi-family dwellings, but not including hotels and motels.

DWELLING UNIT – A room or suite of rooms with kitchen and bath facilities designed as a unit for occupancy by one family.

DWELLING, SINGLE FAMILY – A dwelling designed for and occupied by not more than one (1) family.

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DWELLING, MULTIPLE FAMILY – A building designed exclusively for occupancy by two (2) or more families living independently of each other and containing two (2) or more dwelling units.

EASEMENT – A right of use over the property of another.

ENVIRONMENTAL IMPACT STATEMENTS – Documents that are required by federal and state laws to accompany proposals for projects and programs that will likely have an impact on the surrounding environment.

EROSION -- Soil movement due to wind, water, ice or gravity.

EROSION CONTROL STRUCTURE -- Any manmade device for preventing or controlling erosion.

EXEMPTION – The division of a surface area of land that does not constitute a subdivision under the New Mexico Subdivision Act or these Regulations, subject, however, to approval by the Planning Director.

EXTRATERRITORIAL ZONING AREA – Area that is within the boundaries to which the governing bodies of a municipality and the Board of County Commissioners have joint powers, pursuant to State law.

FINAL PLAT – Map, chart, survey, plat, or replat, certified by a New Mexico licensed, registered land surveyor, that contains a description of the subdivided land with ties to permanent monuments prepared in a form suitable for filing of record, which has been approved by the Board of County Commissioners.

FINISHED GRADE – The completed surface of lawns, walks, driveways or streets brought to the grade shown on any building or development plans.

FIRE DEPARTMENT, LOCAL -- The fire department serving the area.

FIRE PROTECTION PLAN -- A document prepared by the subdivider for the specific project or development proposed in Taos County. It describes ways to minimize and mitigate the fire problems created by the project or development, with the purpose of reducing impact on the community's fire protection delivery system.

FLOOD FRINGE – All that land in a floodplain not lying within a delineated floodway that is subject to inundation by relatively low velocity flows and shallow water depths.

FLOOD HAZARD BOUNDARY MAP – An official map of an area of Taos County, issued by the Federal Emergency Management Agency, where the areas within the boundaries of special flood hazards have been designated.

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FLOOD PLAIN -- Land area susceptible to being inundated by water from any source.

FLOODWAY – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 25-year flood.

FRONTAGE – The length of any one property line of a premises, which property line abuts a legally accessible street right-of-way. For purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered frontage, and the yard is determined accordingly.

FUTURE STREET LINE – A line running more or less parallel to the centerline of certain existing or proposed streets as established by the county for the purpose of delineating the future widths of street right-of-way.

GROUND WATER – Interstitial water occurring in saturated earth material, and which is capable of entering a well in sufficient amounts to be utilized as a water supply.

HYDROLOGIC STUDY – A systematic assessment of various aspects of the water of a geographic area.

HIGHWAY – A main public road or route connecting towns and cities.

IMMEDIATE FAMILY MEMBER – Husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, stepgrandson, granddaughter, stepgranddaughter, nephew and niece, whether related by natural birth or legal adoption.

IMPERVIOUS SURFACE – A surface that substantially reduces or prevents the infiltration of storm water. It includes surfaces such as compacted sand, lime rock, or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

INCOMPATIBLE USE – A use that is inconsistent or otherwise inappropriate to the existing land uses within the surrounding area.

INDIVIDUAL WATER SUPPLY SYSTEM – A water supply system in which each lot provides its own water.

INFRASTRUCTURE AGREEMENT – An agreement entered into between the subdivider and the County, for the purpose of setting forth conditions of approval of a subdivision, time limitations, compliance with conditions, completion of improvements, as security for completion of improvements.

INTERESTED PARTY – One who has a legally recognizable private or public interest in the matter as, for example, property owners within the area of notice, affected

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neighborhood associations, user(s) of a public recreation area, or an affected State or Federal agency. A mere interest in aesthetics or a speculative pecuniary interest are not interests sufficient to be recognized under these Regulations.

INVESTOR-OWNED UTILITY - A water utility organized for the purpose of commercially providing water to its customer base within the defined service area pursuant to NMSA 1978 Section 62-1-1.

LEASE – A contractual agreement for the use of land, structures, buildings, or parts thereof for a fixed time and consideration.

LOCAL DISTRICT -- Any soil and water conservation district within the County in which the proposed subdivision is located.

LOT – A parcel of land proposed to be platted, or platted and placed in the County Clerk's records in accordance with these Regulations, or as otherwise provided by law.

LOT AREA – The total horizontal area within the lot lines of a lot.

LOT, CORNER – A lot abutting on and at the intersection of two or more streets.

LOT COVERAGE – The horizontal area of a site that is covered by buildings or roofed areas.

LOT DEPTH – The average horizontal distance between the front and rear lot lines.

LOT, INTERIOR – A lot other than a corner lot.

LOT FRONTAGE – That portion of any lot that abuts a street where direct vehicular access is allowed from the abutting portion of the lot to the street right-of-way.

LOT LINE – A line dividing one lot from another lot or from a street or alley.

LOT LINE, FRONT – The line separating the front of the lot from the street.

LOT LINE, REAR – That boundary which is opposite and more or less parallel to the front lot line. In the case of an L-Shaped or other irregularly-shaped lot where two or more lines are so located, all shall be considered to be rear lot lines, except one within 50 feet of the front lot line or one that is 20 feet or less in length. In the case of a lot that comes to a point at the rear, the rear lot line shall be that imaginary line parallel to the front lot line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

LOT LINE, SIDE – Any lot line that is not a front or rear lot line.

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LOT LINE, STREET – Any lot line abutting a street right-of-way.

LOT WIDTH – The horizontal distance between side lot lines, measured at the required front setback line.

LOW COST HOUSING -- Any housing development built to benefit those whose income is at or below eight (80) percent of the area median income, and whose occupants will pay no more than thirty (30) percent of their gross monthly income towards such housing; synonymous with affordable housing.

MASTER DEVELOPMENT PLAN OR MASTER PLAN – A sketch, drawing or chart of the subdivider's land that is drawn to scale, which the subdivider proposes to develop in stages, with other information as required in these Regulations.

MAXIMUM ANNUAL WATER REQUIREMENT – The total annual diversion from the source that is required to meet the allowed water use of the subdivision.

MOBILE HOME – A dwelling designed to be drawn by a motor vehicle and to be used as a temporary or permanent human habitation, including trailer coach, trailer home, mobile home and house trailer, whether or not incorporated in a building.

MOBILE HOME PARK SUBDIVISION – Any area of land upon which two (2) or more mobile homes are placed for the purpose of sale, lease or other conveyance.

MUTUAL DOMESTIC WATER CONSUMER ASSOCIATION - A community water system organized pursuant to the Sanitary Projects Act, NMSA 1978 Section 3-29-1 et seq.

NON-CERTIFICATED UTILITY - A utility exempt from mandatory registration with the New Mexico Public Regulatory Commission, including special districts, cooperatives, municipally- owned and homeowner association-owned utilities.

OCCUPANCY – Taking possession of real property and using the same.

OPEN SPACE – That portion of land or water that is dedicated by the subdivider for public use or preserved for common use by the owners within the subdivision.

OWNER – Any person who purchases land within a subdivision or other development or who enjoys fee simple or equitable title to a lot, parcel or tract.

OUTLOT – Term used to refer to an area of land that is to be used for a purpose other than a building site.

PARCEL – Land that is capable of being described by location and boundaries that is not dedicated for public or common use.

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PARK – An area set apart for recreational purposes.

PARKING SPACE – A space for parking a motor vehicle consisting of a minimum area nine feet wide by twenty feet long, exclusive of streets, alleys, driveways, aisles and the areas of egress and ingress.

PERENNIAL STREAM – A body of water evidencing flow of water during a majority of the year.

PERSON – Any individual, partnership, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, political subdivision, or other group or combination acting as a unit.

PERSON AGGRIEVED – A person aggrieved is an "interested party," as defined in these Regulations, whose legal right is adversely affected by the decision, or one whose pecuniary or property interest is directly affected by the decision.

PHASED DEVELOPMENT – A development in which the subdivider proposes to subdivide and develop property in individual phases over a period of time.

PLANNING COMMISSION – The officially appointed Planning Commission of Taos County, New Mexico.

PLANNING DEPARTMENT – The department of the Taos County that is responsible for zoning, planning, and subdivision administration.

PLANNING DIRECTOR -- The person hired by the County Manager to manage the Planning Department. For purposes of these Regulations, "Planning Director" includes his or her designee(s).

PLAT – A map, chart, survey, plan or replat, certified by a New Mexico licensed land surveyor.

PRELIMINARY PLAT -- A map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it based upon an accurate and detailed survey of the land by a New Mexico licensed, registered land surveyor, and in accordance with these Regulations.

PREMISES – A lot, together with all buildings and structures thereon.

PRINCIPAL USE – The primary purpose for which the premise is intended to be used or its actual use.

PUBLIC USE – Use of any land or building by any governmental entity or agency and the public, including such government- operated or -sponsored uses as office buildings,

schools and colleges, community colleges, community libraries, parks and recreation centers, fire stations, police stations, post offices, botanical and zoological parks, hospitals, convention centers, penal detention centers, military bases, and the like.

PUBLIC WATER SUPPLY SYSTEM - A system for providing the public with water for human consumption, fire prevention and gray water use through pipes, or after August 5, 1998, other constructed conveyances, if such system has at least 15 service connections or regularly services an average of at least 25 individuals daily at least 60 days out of the year pursuant to 40 CFR Section 141.2.

RECREATIONAL VEHICLE OR SHELTER – A vehicle or shelter designed primarily for temporary use as a portable dwelling unit for travel, and recreational or camping purposes.
The term "recreational vehicle or shelter" includes the following types of vehicles or shelters:

> **TRAVEL TRAILER** – A vehicle constructed of metal, wood, or fiberglass, with one or two axles and designed to be towed behind a motor vehicle.
>
> **MOTOR HOME** – A self-propelled and generally self-contained vehicle permanently constructed and mounted on a truck or van chassis, and usually allowing for free access between driving and living compartments.
>
> **TENT, TENT CAMPER OR CAMPING TRAILER** – A portable shelter usually fabricated of canvas or other water repellant and fire resistant material. The unit may be designed to collapse for independent storage or may be designed to fold out from a special trailer body towed behind a motor vehicle.

REPLAT - A map, chart, survey or plan of a previously approved subdivision where the character has been changed or the layout has been rearranged, certified by a New Mexico licensed land surveyor.

REPRESENTATIVE WATER SAMPLE – A water sample that can be expected to reflect the quality of water proposed for use.

RESTRICTIVE COVENANTS – Provisions placed in a deed or other recorded instrument that restrict or limit the use of the property being conveyed.

RESUBDIVISION – Any change of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

ROAD, COUNTY – A street that is designated for County maintenance in the most current Taos County Road Inventory as duly authorized by the New Mexico Highway

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Department or that has been established by the Board of County Commissioners in conformance with the petition procedure provided by State law.

SAFE DISTANCE – The distance between a potential source of contamination and a water supply system source that insures 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 most adverse.

SCHEDULE OF COMPLIANCE – A written plan provided by a subdivider detailing methods, procedures and a date by which certain improvements, systems, or activities will be completed to satisfy the specific requirements of these Regulations.

SEASONAL HIGH GROUND WATER TABLE – The highest level to which the upper surface of ground water may be expected to rise within a one-year period.

SECURITY – A performance bond, completion bond, letter of credit, certificate of deposit, cash, collateral, or any other assurance that the county deems acceptable for ensuring completion of improvements required pursuant to these Regulations.

SEDIMENT -- Any soil or other surface material transported by wind or surface water as a product of erosion.

SEPTIC TANK – A tank that is designed and constructed to separate solids from liquid and digest organic matter through a period of detention, together with an absorption field.

SETBACK – The required minimum horizontal distance between the building line and the related front, side, or rear property line.

SHARED WELL -- One domestic well diverting groundwater to serve at least two (2) residential connections.

SITE DEVELOPMENT PLAN – The combination of documents and exhibits required by these Regulations.

SOIL SURVEY -- A national cooperative soil survey conducted by the USDA, Natural 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 standards for an Order 2 survey approved by the local district.

STANDARD ABSORPTION SYSTEM – A below grade soil absorption disposal system whose excavated depth is less than 4 feet from the ground surface.

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STREAM CORRIDOR AREA - A bounded area, designated by the Office of the State Engineer and shown on the Taos County Planning Department Stream Corridor Area Map, that requires heightened water resource protection because new appropriations along a stream or river are likely to negatively effect the State's obligations pursuant to an interstate stream compact, or new appropriations are found to impair existing surface water rights. (On the date of adoption of these Regulations, no stream corridor areas are designated in Taos County.)

STREET, PRIVATE – A street that is intended for common usage by those having a right-of-way, but which has not been dedicated or deeded to the public and has not been duly accepted for public ownership and/or maintenance.

STREET, PUBLIC – A street that has been dedicated or deeded to the public for common usage and that has been expressly accepted for public ownership.

STREET RIGHT-OF-WAY LINES – The perimeter boundaries of a street right-of-way.

STREET – A right-of-way that affords a primary means of vehicular access to abutting lots or rental spaces. Synonymous are the terms street right-of-way, avenue, road, boulevard, calle, easement, or other similar terms. An alley or driveway is not a street.

STRUCTURE – A walled and roofed building, including a gas or liquid storage tank, that is principally above ground and a manufactured home.

SUBDIVIDE – To divide a surface area of land into a subdivision.

SUBDIVIDER – Any person or his or her designee(s) who creates or who has created a subdivision individually or as part of a common promotional plan, or any person or his or her designee(s) engaged in the sale, lease, or other conveyance of subdivided land; however, "subdivider" does not include any duly licensed real estate broker or salesperson acting on another's account.

SUBDIVISION – 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; however, "subdivision" does not include:

1. 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;

2. the sale or lease of apartments, offices, stores or similar space within a building;

3. the division of land within the boundaries of a municipality;

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4. the division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;

5. the division of land created by court order where the order creates no more than one parcel per party;

6. the division of land for grazing or farming activities provided the land continues to be used for grazing or farming activities;

7. the division of land resulting only 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;

8. the division of land to create burial plots in a cemetery;

9. 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;

10. 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;

11. the sale, lease, or other conveyance of land that creates no parcel smaller than one-hundred forty acres.

12. 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 §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

13. 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, which holding period shall preclude the use of this exemption to further divide either the original or the newly created tract.

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SUMMARY REVIEW -- An expedited, administrative review of (a) Type Three subdivisions containing five (5) or fewer parcels of land, and (b) all Type Five subdivisions, unless the property has been previously identified in the County Comprehensive Plan or County Land Use Regulations as an area subject to unique circumstances or conditions that require additional review.

TERRAIN MANAGEMENT -- The control of floods, drainage and erosion and measures required for adapting proposed development to existing soil characteristics and topography.

TERRAIN MANAGEMENT PLAN – The subdivider's proposal for the control of floods, drainage and erosion, and measures required for adapting proposed developments to existing soil characteristics and topography.

TIME OF PURCHASE, LEASE OR OTHER CONVEYANCE – Time of signing any document obligating the person signing the document to purchase, lease, or otherwise acquire a legal interest in land;

TYPES OF SUBDIVISIONS:

TYPE ONE SUBDIVISION – Any subdivision containing five hundred (500) or more lots, any one of which is less than ten (10) acres in size;

TYPE TWO SUBDIVISION – Any subdivision containing not fewer than twenty-five (25) or more lots but not more than four hundred ninety-nine (499) parcels, any one of which is less than ten (10) acres in size;

TYPE THREE SUBDIVISION – Any subdivision containing not more than twenty-four (24) lots any one of which is less than ten (10) acres in size;

TYPE FOUR SUBDIVISION – Any subdivision containing twenty-five (25) or more lots, each of which is ten (10) acres or more in size; and

TYPE FIVE SUBDIVISION – Any subdivision containing not more than twenty-four (24) lots, each of which is ten (10) acres or more in size.

Types of Subdivisions

Type	Number of Parcels	Size of Smallest Parcel
One	500 or More	Less than 10 acres
Two	25 to 499	Less than 10 acres
Three	Not more than 24*	Less than 10 acres
Four	25 or more	10 acres or more
Five	Not more than 24*	10 acres or more

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* **Some Type Three and all Type Five subdivisions shall be subject to approval under summary review procedures pursuant to these Regulations.**

VACATE A PLAT – Act of rescinding (canceling) all or part of a recorded subdivision plat.

VARIANCE – Permission to depart from a literal requirement of these Regulations upon a showing by the applicant that strict enforcement of these Regulations would cause undue hardship in execution.

VISION CLEARANCE – A triangular space at the street corner of a corner lot, which is bounded by the street right-of-way lines connecting points located 30 feet distant from the intersection, or projected intersection, of the street right-of-way lines, within which no obstruction to view between 3 feet and 10 feet above the street level shall be placed or maintained.

WATER BODY – Any natural or manmade structure that contains surface water. Part of the earth's surface covered with water.

WATER AND SANITATION DISTRICT - A special district formed for the purpose of providing water and sanitation services pursuant to NMSA, Section 73-21-1 et seq.

WATER COOPERATIVE - A non-profit cooperative association organized for the purpose of providing water to its members pursuant to NMSA 1978, Section 53-4-1 et seq.

WATERCOURSE – A river, creek, spring, stream, arroyo, acequia, or other like body that has definite banks and/or evidences the overland flow of water.

WILDLAND-URBAN INTERFACE AREAS -- Any area in which structures and other human development meet or intermingle with wildland, forest, or mountainous terrain containing vegetative fuels that present a hazard of wildfires; an area adjacent to an evacuation route for an "at risk" community that requires hazardous fuel reduction for safer evacuation from the community; an area where the watershed is endangered by human development. Any wildland-urban interface areas currently designated, and as amended and supplemented, by the U.S. Bureau of Land Management and the U.S. Forest Service are incorporated and designated as wildland-urban interface areas for purposes of these Regulations.

XERISCAPE – Water-efficient landscapes appropriate to the natural environment.

YARD – That minimum area of land within a lot wherein no structure or portion thereof shall be erected from the ground up unless otherwise expressly permitted by these Regulations.

YARD, REAR – A yard bounded by the rear lot line and on the opposite side by a line drawn parallel to and located the minimum required distance from the rear lot line, and extending across the lot. In the case of a corner lot with a rear lot line, the rear yard extends from the interior side lot line to the street yard. See Lot Line, Rear.

YARD, SIDE – A yard bounded by a side lot line and on the opposite side, by a line drawn parallel to and located the minimum required distance from the side lot line. On the remaining sides, the side yard is bounded by street or rear yards.

YARD, STREET – A yard which is bounded by a street lot line and on the opposite side, by a line drawn parallel to and located the minimum required distance from the street lot line. A street yard extends all the way across a lot.

YARD DEPTH – The minimum prescribed dimension of a required yard measured as a straight-line distance, interiorly from and perpendicular to, the lot line.

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ARTICLE 3. PRE-APPLICATION PROCEDURES

All subdividers shall comply with the pre-application procedures in this Article. The subdivider shall schedule a pre-application conference with the Planning Department by submitting a letter of intent to disclose what it is he or she plans to develop.

Section 3.1. Pre-application Conference Requirements.

Prior to the pre-application conference, the subdivider shall prepare the following, in writing, for use at the conference:

A. Sketch Plan. A sketch plan shall be prepared by the subdivider, which shows the proposed layout of streets and lots, with estimated dimensions and other relevant site information.

B. Location Map. The location of the proposed subdivision must be adequately described on a general map of the area.

C. Additional Information. In addition to the sketch plan and location map, the subdivider shall provide information including, but not limited to, the following:

1. Name and mailing address of the subdivider and designated agent, if any;

2. Name of owner or owners of land to be subdivided;

3. A written description of the proposed subdivision;

4. A description of surrounding land uses; and

5. Accessibility of site to roads and utilities.

Section 3.2 Pre-Application Conference. At the pre-application conference, the Planning Department shall advise the subdivider of the following:

A. A determination will be made as to the type of the proposed subdivision and if the proposed subdivision qualifies for approval under the summary review procedures provided in Article 6 of these Regulations;

B. A determination will be made as to individuals and agencies that shall review the required submittals;

C. A determination will be made as to whether a Master Development Plan is required as described in Article 9, Special Procedures;

D. A determination will be made as to the application of administrative fees in accordance with Article 10.

E. At the request of the subdivider, the Planning Department shall provide sufficient information and application forms for preliminary plat submittal in order to proceed with the county subdivision process and to fulfill the requirements of the New Mexico Subdivision Act and these Regulations.

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ARTICLE 4. PRELIMINARY PLAT REVIEW PROCEDURES

Section 4.1. Preliminary Plat Required.

Preliminary plats shall be submitted for all subdivisions that are not subject to review under the summary review procedures set forth in Article 6 of these Regulations. Preliminary Plat submittal is initiated by completing an application on a prescribed form available at the Planning Department Office and by tendering the preliminary plat application fee in accordance with the fee schedule contained in Article 10 of these Regulations.

Section 4.2. Minimum Lot Sizes

4.2.1. These Regulations limit lot sizes in furtherance of Taos County's goal to promote open space and affordable housing and in furtherance of its terrain management requirements. All lot size limitations are subject to adjustment under the Cluster Housing provisions of Section 8.1. of these Regulations, which provisions shall be encouraged by the Planning Director.

A. Where the average natural ground slope is from 0 – 10%, and where two-thirds (2/3) of the lots within the subdivision are dedicated to affordable housing, the minimum lot size is three-quarters (.75) of an acre.

B. Where the average natural ground slope is from 0 – 10%, and where two-thirds (2/3) of the lots within the subdivision are not dedicated to affordable housing, the minimum lot size is two (2) acres.

C. Where the average natural ground slope is from 10 -- 15%, the minimum lot size is 3 acres.

D. Where the average natural ground slope is greater than 15%, the minimum lot size is 5 acres.

E. Where all public utilities are present, including community water and community waste systems or EID-approved liquid waste systems, minimum lot size is ¼ (.25) of an acre.

4.2.2. The Board of County Commissioners or its designee(s) shall have the authority to increase the minimum lot size requirements consistent with water availability assessments and Section 4.2.3. of these Regulations.

4.2.3. All minimum lot size requirements are subject to adjustment under the cluster housing development standard that permits reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in overall density, and the remaining land

area is devoted to open space, active recreation, or preservation of environmentally sensitive areas or agriculture.

4.2.4. Minimum lot size requirements set forth in these Regulations are waived for purposes of mobile home park subdivisions. Density restrictions set forth in Section 7.2.4. of these Regulations shall apply to mobile home park subdivisions.

Section 4.3. Preliminary Plat Submittal Requirements

The subdivider shall prepare a preliminary plat and supporting documentation in accordance with the following requirements:

4.3.1 Map specifications. The subdivider shall prepare a Preliminary Plat Map at a scale of two-hundred (200) feet to one (1) inch or larger, and printed on sheets no larger than twenty-four by thirty-six (24 x 36) inches. Sheets shall be numbered in sequence if more than one sheet is used. The preliminary plat map shall show the following:

A. title, scale, north arrow, and date;

B. existing topography, natural features and any regarding plans including, but not limited to:
   1. existing contours at 2 foot intervals where the site slopes less than 8%;
   2. existing contours at not more than five foot (5') intervals where the site slopes in excess of 8%;
   3. clearly shade all site areas with slopes in excess of 20%;
   4. underground utility location;
   5. water control structures;
   6. surface geology including rock outcroppings;
   7. vegetation.

C. existing and proposed boundary lines, in bearings and distances, for the subdivision;

D. proposed lot lines, with lot and block numbers, and approximate acreage of each parcel;

E. the location, dimensions (if applicable), and purpose of existing and proposed easements, drainage areas, irrigation ditches (acequias) and laterals, and other significant features on or within or twenty-five feet (25') of the subdivision;

F. names and right-of-way widths of existing and proposed streets on and adjacent to the subdivision;

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G. existing and proposed utilities on and adjacent to the subdivision;

H. locations, dimensions, and purpose of any land to be dedicated to the public use, including any improvements to be made to that land;

I. location of subdivision in relation to well-known landmarks;

J. location of significant archeological, historical, or cultural features in the subdivision;

K. delineation, if applicable, of any flood plain as designated by the Federal Emergency Management Agency (FEMA);

L. names, addresses, and telephone numbers of the owner or owners of land to be subdivided, the subdivider if other than the owner, and the land surveyor;

M. legal description indicating the range, township, section, or land grant, and total acreage within which the subdivision is located.

N. name, address, and telephone number of owner and verification of ownership of the property and current title information by either the title commitment or an attorney memorandum based upon an abstract of title, current as of the date of the submittal;

O. geological stability information to determine if building or other problems may arise from construction in the area proposed for development;

P. zoning on and adjacent to the property;

Q. proposed use of each lot;

R. proposed ownership and use of outlots;

S. names of property owners adjacent to the proposed subdivision for platted and unplatted land;

T. a vicinity map showing at least all sides of the proposed subdivision which may be of a different scale than the plat; and

U. name of acequia and association, if applicable;

4.3.2. Maximum Water Use. The subdivider shall demonstrate that the maximum annual water usage of the subdivision conforms with the following limitations:

A. For each lot within the subdivision, the maximum annual water usage will be 0.5 acre feet per lot. All commercial subdivisions will prepare an annual water budget in accordance with the Office of the State Engineer standards and in accordance with the limitations set forth in these Regulations.

B. In critical management areas and stream corridor areas, water use may be further limited from the standards set forth herein. In areas where groundwater would be supplied from geologic formations that yield minimal amounts of water, i.e. less than 3 gallons per minute, use may be further limited from 0.50 acre feet per lot. In areas where the seasonal high water table is four (4) feet or less, use may be further limited from the 0.50 acre feet per lot.

C. No water usage limitation contained in this section shall affect any surface water rights that attach to any lot within the subdivision.

D. In areas where the seasonal high water table is four (4) feet or less, Taos County may reject the application or require larger lot sizes, less density as in cluster housing, or a community water system.

E. In areas within a Critical Management Area or Stream Corridor Area, where each lot will be served by one (1) individual well or where two (2) or more lots share a domestic well, the subdivider shall obtain, prior to the approval of a proposed subdivision by the Board of County Commissioners, a valid water right from within the Critical Management Area or Stream Corridor Area that changes the place or purpose of use of the water to offset depletions within the area.

4.3.3. Water Availability Assessment. The subdivider shall demonstrate that the proposed subdivision has a sufficient source of water to meet the fully developed needs of the subdivision for a period of fifty (50) years. The supporting documentation required, and the standards by which this assessment must be accomplished, are contained in Appendix A, Section 1, of these Regulations. In addition, the following limitations apply:

A. In areas where groundwater would be supplied from geologic formations that yield minimal amounts of water, i.e. less than 3 gallons per minute, or fail to recover from pump tests, or experience seasonal depth to water, or experience excessive draw downs, the County may reject the application, require larger lot sizes, require that water availability be proven for every well to be used, or require a community water system.

B. In areas where the seasonal high water table is four (4) feet or less, the County may reject the application, or require larger lot sizes, less density as in cluster housing, or require a community water system.

C. In areas within a Critical Management Area or Stream Corridor Area, where each lot will be served by one (1) individual well or two (2) or more lots will share a domestic well, the subdivider shall obtain, prior to the approval of a proposed subdivision by the Board of County Commissioners, a valid water right from within the Critical Management Area or Stream Corridor Area that changes the place or purpose of use of the water to offset depletions within the area.

D. The Planning Director shall, upon receipt of sufficient data from the ongoing water supply studies, identify areas within Taos County where the water supply concerns may require that density limitations be placed upon the subdivision.

4.3.4. Water Conservation Requirements: The subdivider shall demonstrate that water conservation requirements have been met. These water conservation measures shall be included in the subdivision disclosure statement and covenants and deed restrictions. Requirements are as follows:

A. Well Shares: For subdivisions where the source of water will be domestic wells permitted pursuant to Section 72-12-1, shared well systems shall be required for all parcels containing three (3) acres or less. All applicants for subdivisions using well shares must demonstrate to the Planning Director that the water supply equipment to be used will be adequate to provide sufficient water supplies to each lot within the subdivision. Shared wells shall be in accordance with the following standards:

1. The maximum number of lots served by one well shall not exceed six (6). The determination of the number of lots to be served by a single well will be dependent upon the topography of the subdivision, water availability, and the size of the lots within the subdivision. At the discretion of the Planning Director, and, to the extent practicable, shared wells will serve the greatest number of lots up to six (6) lots.

2. The subdivider shall drill the well that will serve each cluster of homes, install the pump and pressure tank, and water distribution line to the pump and pressure tank, and water distribution line to the perimeter of each lot.

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3. All shared wells shall be governed by a shared well agreement. All shared wells shall be metered. Land and water use covenants and restrictions prepared by the subdivider shall stipulate that lot purchasers in each cluster of homes will be entitled to use the maximum portion allowable under these Regulations of the permitted water right associated with each well; and lot purchasers will be responsible for the assessment and collection of fees, and the operation and maintenance of the water system.

B. For subdivisions of 25-99 lots of three (3) acres or less and of 100+ lots of five (5) acres or less, the requirements set forth in Appendix A, Section 2 of these Regulations shall apply.

C. All subdivisions shall contain covenants requiring use of plumbing fixtures that conform to the Uniform Plumbing Code, and any other applicable regulations.

D. Where water pressure at the customer service connection exceeds 80 pounds per square inch (psi), a pressure-reducing valve shall be installed.

4.3.5. Water Quality: The subdivider shall demonstrate that the water supply of the subdivision meets all applicable environmental standards and is of an acceptable quality for human consumption and that the water supply is sufficiently protected from contamination. This demonstration must be provided to the Planning Department in the form of data derived from professional water quality testing and a written assessment by a qualified professional regarding the water quality and protection of the water supply from contamination.

4.3.6. Liquid Waste Disposal: The subdivider shall demonstrate that the subdivision contains adequate liquid waste disposal. The supporting documentation required to make this demonstration is found in Appendix B, Part I, of these Regulations.

4.3.7. Solid Waste Disposal: The subdivider shall demonstrate that the subdivision contains adequate solid waste disposal. The supporting documentation required to make this demonstration is found in Appendix B, Part II, of these Regulations.

4.3.8. Legal Access: The subdivider shall demonstrate that the subdivision provides legal access to each lot. The documentation required to make this demonstration shall be in the form of a recorded legal conveyance of real property or rights in real property or a court order.

4.3.9. Adequacy of Roads: The subdivider shall demonstrate the adequacy of roads serving the subdivision in accordance with the performance standards and documentation required under Appendix C, Part I, of these Regulations. In addition, the subdivider must comply with the following regulations.

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A. Road Improvements: All roads within the subdivision, and all access roads from County Roads to the subdivision, shall be developed in accordance with the design standards set forth in Appendix C. A County Road is any road that is listed on the most current Inventory of County Maintained Roads provided to the State under State statute. All plans for road improvements required under these Regulations shall be drawn by a New Mexico licensed engineer at the subdivider's expense and submitted to the Planning Department in accordance with the standards set forth in Appendix C, Part I.

B. Road Maintenance Agreement: Except when roads have been accepted for maintenance by Taos County, the maintenance of all roads within the subdivision shall be governed by a Road Maintenance Agreement prepared by the subdivider. The agreement shall require payment of sufficient dues from the owner of every lot within the subdivision to provide for adequate and continuing maintenance of the roads. The form of the Road Maintenance Agreement shall be subject to approval by the Planning Director.

C. Access Roads: Access Roads are those roads that are necessary to access the property within the subdivision and are not County Roads. The subdivider must provide the Planning Department with proof of the subdivider's legal right to use the Access Road and to improve the Access Road in accordance with the design standards contained in Appendix C, Part I. The proof of legal access must be in the form of a duly recorded document conveying real property or property rights or a court order. These Regulations recognize that said proof is not always obtainable and that variances to this requirement may be considered. However, the granting of a variance for a subdivision on any access road does not act as a precedent for the granting of a variance on any future subdivision using the same access road. Additional variances may be denied due to the increased burden on the access road created by the subsequent subdivision.

1. Shared Cost to Improve Access Roads: It is the intent of these Regulations to require subdividers to share in the cost of all improvements to access roads; however, Taos County shall be held harmless in any disputes between subdividers regarding shared costs. To that end, the following requirements shall apply:

   (a) The first subdivider(s) requiring the use of an access road will be financially responsible to improve the road in accordance with the standards set forth in Appendix C.

(b) Any subsequent application for a subdivision that requires the use of any access road that was improved under these Regulations must submit proof to the Planning Department that the subsequent subdivider has offered to reimburse the original subdivider, who bore the cost of the improvement of the access road, a proportional amount of that cost, including engineering costs. The proportional amount shall be determined by the number of lots using the access road. For example, if the original subdivision contained 10 lots and the cost to improve the access road, including engineering, was $1,000, and the subsequent subdivision contains a total of 5 lots, then the second subdivider must deliver proof that he/she offered the original subdivider $333 as his/her share of the cost of installation of the access road improvements ($1,000 divided by 15 lots equals $66 times 5 lots for a total of $333 for the 5 lot subdivision).

2. Access Road Maintenance: Obligations for maintenance of any access road improved pursuant to these Regulations shall be included in the Road Maintenance Agreement required under these Regulations.

D. Dedication of Roads: As required by the Planning Department, the subdivider shall dedicate access roads and roads within subdivisions as follows:

1. "Dedicated to private use" is an easement or land conveyance granted by the property owner for use by the owners of property within the subdivision and accepted by a Homeowners Association. All roads that are accepted by Homeowners Associations will be maintained under a recorded Road Maintenance Agreement entered into by and between the owners of the subdivision. The agreement shall assess sufficient annual dues to owners so that the shared roads can be properly maintained.

2. "Dedicated to public use" is an easement or land conveyance granted by the property owner for use by the public and accepted by a Homeowners Association or Taos County. All roads that are accepted by Homeowners Associations shall be maintained under a recorded Road Maintenance Agreement entered into by and between the owners of the subdivision that is binding on owners and their successors in interest.

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3. "Dedicated to public use and accepted by the County" is an acceptance of land or easement by the County on behalf of the public for public use.

4. "Dedicated to the County and accepted for maintenance" is an acceptance of land or easement by the County on behalf of the public for public use and an acceptance of responsibility to maintain the road.

5. The preliminary plat shall contain a certificate stating that the Board of County Commissioners or a Homeowners Association has accepted, accepted subject to improvement, or rejected, on behalf of the public, any land or easements offered for dedication for public use in conformity with the terms of the offer of dedication. If the subdivision is subject to a Road Maintenance Agreement, it shall be filed along with the approved plat. If the dedication is made to a Homeowners Association and accepted, then the Homeowners Association articles and restrictive covenants shall be filed along with the approved plat at the office of the County Clerk. Acceptance of offers of dedication on a final plat shall not be effective until the final plat is filed in the Office of the County Clerk and a resolution of acceptance by the Board of County Commissioners or Homeowners Association is filed in such office.

D. 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 lots or improvements within twenty-four (24) months from the date of construction of the road.

E. It is unlawful for a subdivider to grade or otherwise commence construction of roads unless such construction conforms to the schedule of road development directed by the Board of County Commissioners or its designee.

4.3.10. Utility Easements: The subdivider shall demonstrate that the subdivision contains adequate and legal utility easements to each lot. The performance standards and supporting documentation required to make this demonstration are found in Appendix C, Part II, to these regulations.

4.3.11. Fire Protection: The subdivider shall demonstrate that there is adequate fire protection for the subdivision as follows:

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A. Water Supply for Fire Fighting: The subdivider shall provide on-site water for fire fighting unless the subdivider can demonstrate to the Planning Department that each of the lots within the subdivision has the right to use a 30,000 gallon water supply for fire fighting that is located within one mile of the subdivision boundary closest to the supply. In the event that no such supply is available, the subdivider shall install a 30,000 gallon water tank for fire fighting in accordance with specifications approved by the Planning Department. Every application for drilling a water well made to the New Mexico Office of the State Engineer shall list water for fire protection as part of the application.

B. Hydrant and Hose Fittings: All water supplies to be used for fire fighting shall be equipped with a hydrant with hose fittings that will accommodate the hoses that are used by the fire department where the subdivision is located.

C. Shared Cost to Install Water Supply and Storage for Fire Fighting: It is the intent of these Regulations to require subdividers to share in the cost of the installation of water supply and storage for fire fighting; however, Taos County shall be held harmless in any disputes between subdividers regarding shared costs. To that end, the following requirements will apply:

1. The first subdivider who is required to install a 30,000-gallon water supply for fire fighting will be financially responsible for the installation and all associated costs. Any subsequent application for a subdivision that is located within a one mile radius of the previously installed water supply and storage, that proposes to use that water in order to comply with these regulations, must submit proof to the Planning Department that the subsequent subdivider has agreed to pay the original subdivider, who bore the cost of the installation of the water supply and storage, a proportionate amount of that cost. The proportionate amount shall be determined by the number of lots using water. For example, if the original subdivision contained 10 lots and the cost to install the water supply and storage was $1,000, and the subsequent subdivision contains a total of 5 lots, then the second subdivider must deliver proof that he/she offered the original subdivider $333 as his/her share of the cost of installation. ($1,000 divided by 15 lots equals $66 times 5 lots for a total of $333 for the 5 lot subdivision)

2. All on site water storage for fire fighting will be maintained under a recorded Maintenance Agreement that binds all owners and

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successors in interest of lots within the subdivision where the water storage is located, and any other property owners who have the right to use the water for fire suppression. The maintenance agreement shall require payment of sufficient dues in order to properly maintain the water storage to insure that it is filled and in working order at all times. The agreement shall also indemnify the County from any liability associated with the maintenance of the water supply.

D. Access for Emergency Vehicles: The subdivider shall build a fifty (50) foot turning circle, a hammerhead turn, or an equivalent turnout every one thousand (1,000) feet along main access roads and a fifty (50) foot diameter cul-de-sac at the end of any dead end road within the subdivision, to accommodate fire apparatus and emergency vehicles. Any subsequent subdivider who is required to use the same improved access road will submit evidence to the Planning Department that he/she has offered the original subdivider a proportional share of the cost in accordance with the shared cost provisions outlined above and those set forth in 4.3.9 (C).

E. Fire Prevention Plan: The subdivider shall submit a fire prevention plan to the Planning Department, which will be sent to the local fire department for agency review under the provisions of Section 4.7 of these Regulations. The fire prevention plan will address defensible space, vegetation management, water supply, access, building ignition, fire-resistance factors, and fire protection systems and equipment.

F. Sprinkler System: Any subdivision located in an area that can only be accessed by a road containing grades in excess of 12%, where such grades extend for 500 lineal feet and are located in a forested area, must include a restrictive covenant requiring all residences in the subdivision to be equipped with an interior sprinkler system with sufficient pressure and supply for fire suppression.

G. Wildland-Urban Interface Areas: Any subdivision located in a Wildland-Urban Interface Area, shown on the Taos County Wildland-Urban Interface Area Map, shall be required to comply with the performance standards and supporting documentation in Appendix D of these Regulations.

4.3.12. Terrain Management: The subdivider shall demonstrate that the subdivision is designed to provide for adequate terrain management. The performance standards and supporting documentation required to make this demonstration are found in Appendix E of these Regulations.

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4.3.13. Cultural Properties: The subdivider shall contact the State Historic Preservation Office to determine whether properties entered into the State Register of Cultural Properties are within the boundaries of the proposed subdivision, and

A. If there are no such properties, a copy of the letter to that effect from the State Historic Preservation Office shall be provided in the application packet for subdivision approval; or

B. If any such properties exist within the boundaries of the proposed subdivision, a copy of the letter to that effect from the State Historic Preservation Division shall be provided in the application package for subdivision approval. Taos County will then consult with the Historic Preservation Division pursuant to the Cultural Properties Act, NMSA 1978, Section 18-6-1 through 18-6-17;

C. A cultural resource survey shall be prepared by a professional archeologist holding a current New Mexico Archeological Survey Permit, to determine if significant archeological sites are identifiable prior to commencement of construction. If significant archeological sites are identified in the cultural resource survey, the requirements of Appendix F, para. B. shall be met by the subdivider.

D. See Appendix F for other requirements.

4.3.14. Disclosure Statement: Taos County's requirements for the contents of disclosure statements are found in these regulations at Appendix G.

4.3.15. Fee Schedule: Taos County's fee schedule is found in Article 10 of these Regulations.

4.3.16. Phased Developments: When the proposed subdivision plat is the first of an integral part of an overall large scale development, then the proposed plat cannot be considered unless accompanied by a Master Development Plan, which shall include an anticipated phasing schedule for the final plats and a schedule of improvements. The Master Development Plan shall contain the following information:

A. A color-coded Development Plan Map drawn to appropriate contour intervals with a legend interpreting the map. Major traffic circulation streets as well as residential, commercial, recreational, educational, industrial and other functional areas shall be indicated.

B. Estimated Total Acreage to be Developed.

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1. Estimated number of plats (stages) anticipated.
2. Estimated timing and staging of plats to be developed.

3. Estimated acreage for the following uses:

   Residential
   Single Family Dwelling
   Multiple Family Dwellings;

   Commercial;

   Industrial;

   Parks, Open Space and Wilderness Area; and

   Community Facilities.

C. Estimated number of Residential Lots:

   1. Under one acre;

   2. One acre to two acres; and

   3. Over two acres.

D. Development Plan Policies relative to Parks, open space, and wilderness areas:

   1. Dedicated park areas for neighborhood community recreation;

   2. Bridle paths, hiking and cycling trails;

   3. Natural or wilderness areas;

   4. Community Facilities. Criteria used in determining size and location. Certification by authorized representatives of local utilities and other service providers shall be obtained. Applicant shall address:

      Recreation facilities;

      Schools;

      Fire and Police;

      Gas and Power;

Medical facilities, related services;

Water supply assessment in accordance with these Regulations;

Liquid waste system; and

Solid waste system.

5. Residential – Architectural design of homes to be constructed;

6. Transportation Plan;

7. Commercial Areas – number, location, type, restrictions, development and maintenance schedule, criteria used in determining size, who will develop and when, and who will maintain and when.

4.3.17. Conveyances. Regulations for recording conveyances are as follows:

A. Purpose. Recording conveyances of parcels provides anyone interested in acquiring land, and lenders, with important information about the condition of title. Recording conveyances of all parcels also provides public officials with information needed to detect illegal subdividing. The purpose of this information is to protect buyers and lenders and to help enforce the Act and these Regulations by making all conveyances of parcels matters of public record.

B. Requirement. Any person who sells, leases for an initial term plus option terms in excess of five (5) years, or otherwise conveys any interest in any parcel located in whole or in part in the County shall record the deed, lease, memorandum of real estate contract, or other document of conveyance with the County Clerk no later than five (5) days after the closing or thirty (30) days after the date on which the document is signed, whichever comes first. A memorandum of lease may be recorded in lieu of recording the lease itself, as provided in §14-9-1, NMSA 1978.

C. Form and certification. Any deed, lease for an initial term plus option terms in excess of five (5) years, real estate contract, or other document used to convey any interest in any parcel located in whole or in part in the County shall be in a form acceptable for recording and duly acknowledged and certified as required by the provisions of §14-8-4, NMSA 1978.

D. Plat attachment. The deed, lease, real estate contract, or other document of conveyance shall have a survey plat and a legal description of the parcel attached to it. The survey plat shall show the surveyor's seal, the

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boundaries of the parcel, the means of access to the parcel, and any easements to which the parcel is subject.

Section 4.4. **Area of notice map / Property owner identification.** The subdivider shall submit an area of notice map showing all parcels within 1000 feet of the exterior boundaries of the property proposed to be subdivided. The applicant shall also identify each parcel within the area of notice map by providing the property code number, if available, names and mailing addresses of those property owners within the notification area.

Section 4.5. **Filing specifications.** The subdivider shall submit twenty-one (21) copies of the preliminary plat, and the supporting documentation to the Planning Department for review and distribution to public agencies.

Section 4.6. **Preliminary Plat Deemed Complete.** On receipt of the application, fees, and all preliminary plat submittal requirements under these Regulations, the Planning Department will review the application submissions to determine if the preliminary plat is ready for review process.

If there are no deficiencies, the preliminary plat application shall be deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. Notice shall be given by certified mail, return receipt requested.

If the preliminary plat application is incomplete or does not comply with the submittal requirements provided herein, the Planning Department shall, within thirty (30) days after the date of application, provide a letter to the applicant deeming the preliminary plat application incomplete. The subdivider shall be notified, by certified mail, return receipt requested, and be given a maximum time period of sixty (60) days to correct the deficiencies and return the preliminary plat and documentation for consideration. If this timeframe is not met, the application process shall begin anew and the preliminary plat application and fees must be resubmitted. An extension of time may be granted by the Planning Director for good cause, upon written request submitted before the sixty (60) day period has run.

Section 4.7. Agency Review / Hearing Deadline

4.7.1. Plat transmittals. Within ten (10) working days after the date that the preliminary plat application is deemed complete, the Planning Department shall forward a copy of the preliminary plat and relevant supporting documentation to the following state and local agencies by receipted delivery, with a request for review and opinions:

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A. New Mexico State Engineer's Office;

B. New Mexico Environment Department;

C. New Mexico Department of Transportation;

D. Historic Preservation Division, Office of Cultural Affairs;

E. Municipality, if proposed subdivision site is within an Extraterritorial Zone;

F. The Soil and Water Conservation District in which the proposed subdivision is located;

G. The local fire department district in which the proposed subdivision is located.

H. Any other public agencies the County considers necessary to determine whether there are adequate facilities to accommodate the proposed subdivision.

4.7.2. 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 Planning Director shall obtain receipts or other proof showing the date the opinion request was received by each state or local agency.

4.7.3. Favorable Opinion. 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 the last 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.

4.7.4. Adverse opinion. If any opinion from a public agency is adverse, the Planning Department 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 from date of notification to respond to the concerns of the appropriate agency. The Planning Department shall forward such additional information upon receipt to the appropriate agency that shall have thirty (30) days after the date the subdivider submits the additional information in order to revise its opinion. The Planning Department shall obtain receipts or other proof showing the date the additional information was received by each state or local agency.

4.7.5. Revised opinion. The Planning Department shall schedule a preliminary plat public hearing for consideration of the preliminary plat and action within thirty (30) days after the receipt of a revised opinion from the appropriate agency. If the

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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 preliminary plat public hearing after proper notification. If the final revised opinion of the agency is still adverse, then the subdivider will have the burden of showing that the adverse opinion is incorrect either as to factual or legal matters.

4.7.6. Scheduling the Planning Commission Preliminary Plat Hearing. Public hearings on preliminary plats shall be held within thirty (30) days from the receipt of all requested public agency opinions.

Section 4.8 Public Hearings on Preliminary Plats

4.8.1. Notice by Publication. The subdivider shall be responsible for effecting notice by publication. The subdivider shall publish the first notice of the public hearing at least twenty-one (21) days before the hearing date. The notice of public hearing shall be published twice in a newspaper of general circulation in Taos County.

4.8.2 Notice by Posting: The subdivider shall provide notice of the public hearing by posting a notice of public hearing on a public right-of-way leading to, and/or adjoining the proposed subdivision site, and by posting notice of public hearing at the Taos County Courthouse, the Planning Department, the Taos County Administration Building and the U.S. Post Office in the area where the proposed subdivision is proposed.

4.8.3. Additional Notification. The subdivider shall transmit notice of the public hearing directly to the following:

A. those public agencies that initially received copies of the preliminary plat and supporting documentation with a request for opinion;
B. any interested person who previously requested such notice and provided a stamped, self-addressed envelope for such purpose;

C. owners of property as identified in the records of the Taos County Assessor's Office, that are within 1,000 feet of the exterior boundaries of the land proposed to be subdivided. Notice shall be sent by applicant via certified mail, return receipt requested, and proof of same shall be provided to the Planning Department;
D. the affected neighborhood and /or community associations, acequia associations, and utility companies with easements on the proposed subdivision site.

4.8.4. Content of Notice. All of the above described notices of public hearing on the preliminary plat shall include the following:

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A. Subject of the hearing including the location and legal description of the proposed subdivision and other agenda items;

B. Time, date and place of the hearing;

C. Manner for interested persons to present their views; and

D. Place and manner for interested persons to get copies of any favorable or adverse opinion of the subdivider's proposal.

4.8.5. Participation/Record. At the public hearing, all interested persons shall be allowed a reasonable opportunity to submit data, views, or arguments, orally or in writing, and to examine and cross-examine witnesses testifying at the hearing. A record of the public hearing shall be kept. The hearing shall be tape-recorded. Opinions of the public agencies shall be made part of the record.

4.8.6. Hearing Procedure. Preliminary Plat hearings are quasi-judicial proceedings. The following procedures shall be followed:

A. All interested parties wishing to speak, ask questions, make comments, or make a presentation must sign the speaker list.

B. All speakers providing testimony or evidence shall do so under oath.

C. Planning Department staff shall make a presentation of the proposed subdivision.

D. The applicant, and/or, his/her agent(s) will then be allowed an opportunity to present the application.

E. The Planning Commission will then allow the audience an opportunity to ask questions of the applicant or his or her agent(s).

F. The Planning Commission will then allow sworn testimony to be given by anyone speaking for, or against, the proposed subdivision.

G. All individuals providing testimony or evidence are subject to cross-examination.

H. The Planning Commission may impose reasonable limitations on the number of witnesses heard, the content and length of witness testimony, and the questioning conducted by the applicant and other interested parties.

I. The Planning Commission will close public input and testimony for the purpose of allowing the Planning Commission to deliberate.

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J. The Planning Commission shall prepare a written decision that contains findings of fact and conclusions of law.

4.8.7. Action. The Planning Commission shall recommend to the Board of County Commissioners approval, approval with conditions, or disapproval of the preliminary plat at the public hearing. The written recommendations of the Planning Commission shall be filed in the County Clerk's office within thirty (30) days of the hearing, and a copy of the decision shall be mailed to the subdivider upon its filing.

Recommendations for preliminary plat approval shall not be given by the Planning Commission unless the Planning Commission determines that the subdivider can fulfill proposals contained in the disclosure statement and that the subdivider's proposal conforms with the New Mexico Subdivision Act and with these Regulations.

4.8.8. Hearing Before the Board of County Commissioners. Within thirty (30) days after the filing of the recommendations of the Planning Commission on a preliminary plat, the Board of County Commissioners shall approve, approve with conditions, or disapprove the preliminary plat at a public hearing of the Board of County Commissioners. The Board of County Commissioners shall file its written decision in the County Clerk's office within thirty (30) days of the hearing, and a copy of the decision shall be mailed to the subdivider upon its filing. Appeal from a decision of the Board of County Commissioners shall be made pursuant to Article 11.

4.8.9. Hearing Procedures. Uniform procedures shall be observed, with discretion to amend as is deemed necessary by the Planning Commission. Hearings shall be conducted in accordance with Robert's Rules of Order, as amended, and the following guidelines:

A. Only interested persons, their agent or attorney, and Taos County staff will be allowed to address the Planning Commission.

B. All speakers shall be sworn in by a Notary Public, and cross-examination by interested persons, staff, or Planning Commission will be allowed.

C. The applicant shall speak first. The applicant shall have a reasonable amount of time, as determined by the Planning Commission's chairperson, in which to present applicant's(s') position.

D. The applicant(s) shall have a reasonable amount of time, as determined by the Planning Commission's chairperson, in which to present the application.

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E. Planning staff shall make its presentation.

F. Interested persons supporting or opposing the application shall be allotted three (3) minutes each to speak.

G. Time allotted to speakers shall be monitored by a Taos County staff person.

H. The chairperson shall have the right to prevent repetitious and repetitive statements by asking any speaker who is being repetitious to end his/her remarks and, if appropriate, to leave the podium or floor.

I. The chairperson shall have the right to take any and all appropriate actions to insure that preliminary plat hearings are orderly and equitably conducted so that all persons having a right to speak shall have the opportunity to do so. Only the speaker having the floor shall be allowed to speak. Members of the public attending the hearing shall not speak, comment, or disrupt, when another has been given the floor by the chairperson.

J. The chairperson shall enforce the rules, and may, at his option, appoint a Sergeant at Arms to assist in enforcing these rules.

K. The Planning Commission, in its discretion, may deliberate in executive session; and final action on recommendations shall occur in open meeting.

L. Written recommendations by the Planning Commission shall be filed in the Office of the County Clerk within thirty (30) days of the hearing.

Section 4.9. Expiration of Preliminary Plat

4.9.1. Effective Period of Preliminary Approval: The approval of a preliminary plat shall be effective for a period of two (2) years, during which time application for final plat approval must have been submitted. If the subdivider fails to submit a final plat for approval within the two (2) -year period, approval or conditional approval of the preliminary plat shall be deemed expired and of no force and effect.

4.9.2. Extension. Before the expiration date of the approved or conditionally approved preliminary plat, the subdivider may submit to the Planning Commission an application for extension of the preliminary plat for a period of time not exceeding an additional twelve (12) months.

4.9.3 Phased Development Extension. If the preliminary plat was approved as a phased development in accordance with the provisions of 4.3.16, the subdivider may file final plats for portions of the development, and the expiration date of the preliminary plat shall be extended 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 Planning Commission at the time of approval or conditional approval of the preliminary plat.

4.9.4. Expiration. The expiration of an approved or conditionally approved preliminary plat shall terminate all proceedings on the subdivision, and no final plat shall be filed until the developer submits a new application for preliminary plat approval consistent with these Regulations. Fees must also be resubmitted.

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A. For each lot within the subdivision, the maximum annual water usage will be 0.5 acre feet per lot. All commercial subdivisions will prepare an annual water budget in accordance with the Office of the State Engineer standards and in accordance with the limitations set forth in these Regulations.

B. In critical management areas and stream corridor areas, water use may be further limited from the standards set forth herein. In areas where groundwater would be supplied from geologic formations that yield minimal amounts of water, i.e. less than 3 gallons per minute, use may be further limited from 0.50 acre feet per lot. In areas where the seasonal high water table is four (4) feet or less, use may be further limited from the 0.50 acre feet per lot.

C. No water usage limitation contained in this section shall affect any surface water rights that attach to any lot within the subdivision.

D. In areas where the seasonal high water table is four (4) feet or less, Taos County may reject the application or require larger lot sizes, less density as in cluster housing, or a community water system.

E. In areas within a Critical Management Area or Stream Corridor Area, where each lot will be served by one (1) individual well or where two (2) or more lots share a domestic well, the subdivider shall obtain, prior to the approval of a proposed subdivision by the Board of County Commissioners, a valid water right from within the Critical Management Area or Stream Corridor Area that changes the place or purpose of use of the water to offset depletions within the area.

4.3.3. Water Availability Assessment. The subdivider shall demonstrate that the proposed subdivision has a sufficient source of water to meet the fully developed needs of the subdivision for a period of fifty (50) years. The supporting documentation required, and the standards by which this assessment must be accomplished, are contained in Appendix A, Section 1, of these Regulations. In addition, the following limitations apply:

A. In areas where groundwater would be supplied from geologic formations that yield minimal amounts of water, i.e. less than 3 gallons per minute, or fail to recover from pump tests, or experience seasonal depth to water, or experience excessive draw downs, the County may reject the application, require larger lot sizes, require that water availability be proven for every well to be used, or require a community water system.

B. In areas where the seasonal high water table is four (4) feet or less, the County may reject the application, or require larger lot sizes, less density as in cluster housing, or require a community water system.

C. In areas within a Critical Management Area or Stream Corridor Area, where each lot will be served by one (1) individual well or two (2) or more lots will share a domestic well, the subdivider shall obtain, prior to the approval of a proposed subdivision by the Board of County Commissioners, a valid water right from within the Critical Management Area or Stream Corridor Area that changes the place or purpose of use of the water to offset depletions within the area.

D. The Planning Director shall, upon receipt of sufficient data from the ongoing water supply studies, identify areas within Taos County where the water supply concerns may require that density limitations be placed upon the subdivision.

4.3.4. Water Conservation Requirements: The subdivider shall demonstrate that water conservation requirements have been met. These water conservation measures shall be included in the subdivision disclosure statement and covenants and deed restrictions. Requirements are as follows:

A. Well Shares: For subdivisions where the source of water will be domestic wells permitted pursuant to Section 72-12-1, shared well systems shall be required for all parcels containing three (3) acres or less. All applicants for subdivisions using well shares must demonstrate to the Planning Director that the water supply equipment to be used will be adequate to provide sufficient water supplies to each lot within the subdivision. Shared wells shall be in accordance with the following standards:

1. The maximum number of lots served by one well shall not exceed six (6). The determination of the number of lots to be served by a single well will be dependent upon the topography of the subdivision, water availability, and the size of the lots within the subdivision. At the discretion of the Planning Director, and, to the extent practicable, shared wells will serve the greatest number of lots up to six (6) lots.

2. The subdivider shall drill the well that will serve each cluster of homes, install the pump and pressure tank, and water distribution line to the perimeter of each lot.

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3. All shared wells shall be governed by a shared well agreement. All shared wells shall be metered. Land and water use covenants and restrictions prepared by the subdivider shall stipulate that lot purchasers in each cluster of homes will be entitled to use the maximum portion allowable under these Regulations of the permitted water right associated with each well; and lot purchasers will be responsible for the assessment and collection of fees, and the operation and maintenance of the water system.

B. For subdivisions of 25-99 lots of three (3) acres or less and of 100+ lots of five (5) acres or less, the requirements set forth in Appendix A, Section 2 of these Regulations shall apply.

C. All subdivisions shall contain covenants requiring use of plumbing fixtures that conform to the Uniform Plumbing Code, and any other applicable regulations.

D. Where water pressure at the customer service connection exceeds 80 pounds per square inch (psi), a pressure-reducing valve shall be installed.

4.3.5. Water Quality: The subdivider shall demonstrate that the water supply of the subdivision meets all applicable environmental standards and is of an acceptable quality for human consumption and that the water supply is sufficiently protected from contamination. This demonstration must be provided to the Planning Department in the form of data derived from professional water quality testing and a written assessment by a qualified professional regarding the water quality and protection of the water supply from contamination.

4.3.6. Liquid Waste Disposal: The subdivider shall demonstrate that the subdivision contains adequate liquid waste disposal. The supporting documentation required to make this demonstration is found in Appendix B, Part I, of these Regulations.

4.3.7. Solid Waste Disposal: The subdivider shall demonstrate that the subdivision contains adequate solid waste disposal. The supporting documentation required to make this demonstration is found in Appendix B, Part II, of these Regulations.

4.3.8. Legal Access: The subdivider shall demonstrate that the subdivision provides legal access to each lot. The documentation required to make this demonstration shall be in the form of a recorded legal conveyance of real property or rights in real property or a court order.

4.3.9. Adequacy of Roads: The subdivider shall demonstrate the adequacy of roads serving the subdivision in accordance with the performance standards and documentation required under Appendix C, Part I, of these Regulations. In addition, the subdivider must comply with the following regulations.

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A. Road Improvements: All roads within the subdivision, and all access roads from County Roads to the subdivision, shall be developed in accordance with the design standards set forth in Appendix C. A County Road is any road that is listed on the most current Inventory of County Maintained Roads provided to the State under State statute. All plans for road improvements required under these Regulations shall be drawn by a New Mexico licensed engineer at the subdivider's expense and submitted to the Planning Department in accordance with the standards set forth in Appendix C, Part I.

B. Road Maintenance Agreement: Except when roads have been accepted for maintenance by Taos County, the maintenance of all roads within the subdivision shall be governed by a Road Maintenance Agreement prepared by the subdivider. The agreement shall require payment of sufficient dues from the owner of every lot within the subdivision to provide for adequate and continuing maintenance of the roads. The form of the Road Maintenance Agreement shall be subject to approval by the Planning Director.

C. Access Roads: Access Roads are those roads that are necessary to access the property within the subdivision and are not County Roads. The subdivider must provide the Planning Department with proof of the subdivider's legal right to use the Access Road and to improve the Access Road in accordance with the design standards contained in Appendix C, Part I. The proof of legal access must be in the form of a duly recorded document conveying real property or property rights or a court order. These Regulations recognize that said proof is not always obtainable and that variances to this requirement may be considered. However, the granting of a variance for a subdivision on any access road does not act as a precedent for the granting of a variance on any future subdivision using the same access road. Additional variances may be denied due to the increased burden on the access road created by the subsequent subdivision.

1. Shared Cost to Improve Access Roads: It is the intent of these Regulations to require subdividers to share in the cost of all improvements to access roads; however, Taos County shall be held harmless in any disputes between subdividers regarding shared costs. To that end, the following requirements shall apply:

   (a) The first subdivider(s) requiring the use of an access road will be financially responsible to improve the road in accordance with the standards set forth in Appendix C.

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(b) Any subsequent application for a subdivision that requires the use of any access road that was improved under these Regulations must submit proof to the Planning Department that the subsequent subdivider has offered to reimburse the original subdivider, who bore the cost of the improvement of the access road, a proportional amount of that cost, including engineering costs. The proportional amount shall be determined by the number of lots using the access road. For example, if the original subdivision contained 10 lots and the cost to improve the access road, including engineering, was $1,000, and the subsequent subdivision contains a total of 5 lots, then the second subdivider must deliver proof that he/she offered the original subdivider $333 as his/her share of the cost of installation of the access road improvements ($1,000 divided by 15 lots equals $66 times 5 lots for a total of $333 for the 5 lot subdivision).

2. Access Road Maintenance: Obligations for maintenance of any access road improved pursuant to these Regulations shall be included in the Road Maintenance Agreement required under these Regulations.

D. Dedication of Roads: As required by the Planning Department, the subdivider shall dedicate access roads and roads within subdivisions as follows:

1. "Dedicated to private use" is an easement or land conveyance granted by the property owner for use by the owners of property within the subdivision and accepted by a Homeowners Association. All roads that are accepted by Homeowners Associations will be maintained under a recorded Road Maintenance Agreement entered into by and between the owners of the subdivision. The agreement shall assess sufficient annual dues to owners so that the shared roads can be properly maintained.

2. "Dedicated to public use" is an easement or land conveyance granted by the property owner for use by the public and accepted by a Homeowners Association or Taos County. All roads that are accepted by Homeowners Associations shall be maintained under a recorded Road Maintenance Agreement entered into by and between the owners of the subdivision that is binding on owners and their successors in interest.

3. "Dedicated to public use and accepted by the County" is an acceptance of land or easement by the County on behalf of the public for public use.

4. "Dedicated to the County and accepted for maintenance" is an acceptance of land or easement by the County on behalf of the public for public use and an acceptance of responsibility to maintain the road.

5. The preliminary plat shall contain a certificate stating that the Board of County Commissioners or a Homeowners Association has accepted, accepted subject to improvement, or rejected, on behalf of the public, any land or easements offered for dedication for public use in conformity with the terms of the offer of dedication. If the subdivision is subject to a Road Maintenance Agreement, it shall be filed along with the approved plat. If the dedication is made to a Homeowners Association and accepted, then the Homeowners Association articles and restrictive covenants shall be filed along with the approved plat at the office of the County Clerk. Acceptance of offers of dedication on a final plat shall not be effective until the final plat is filed in the Office of the County Clerk and a resolution of acceptance by the Board of County Commissioners or Homeowners Association is filed in such office.

D. 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 lots or improvements within twenty-four (24) months from the date of construction of the road.

E. It is unlawful for a subdivider to grade or otherwise commence construction of roads unless such construction conforms to the schedule of road development directed by the Board of County Commissioners or its designee.

4.3.10. Utility Easements: The subdivider shall demonstrate that the subdivision contains adequate and legal utility easements to each lot. The performance standards and supporting documentation required to make this demonstration are found in Appendix C, Part II, to these regulations.

4.3.11. Fire Protection: The subdivider shall demonstrate that there is adequate fire protection for the subdivision as follows:

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A. Water Supply for Fire Fighting: The subdivider shall provide on-site water for fire fighting unless the subdivider can demonstrate to the Planning Department that each of the lots within the subdivision has the right to use a 30,000 gallon water supply for fire fighting that is located within one mile of the subdivision boundary closest to the supply. In the event that no such supply is available, the subdivider shall install a 30,000 gallon water tank for fire fighting in accordance with specifications approved by the Planning Department. Every application for drilling a water well made to the New Mexico Office of the State Engineer shall list water for fire protection as part of the application.

B. Hydrant and Hose Fittings: All water supplies to be used for fire fighting shall be equipped with a hydrant with hose fittings that will accommodate the hoses that are used by the fire department where the subdivision is located.

C. Shared Cost to Install Water Supply and Storage for Fire Fighting: It is the intent of these Regulations to require subdividers to share in the cost of the installation of water supply and storage for fire fighting; however, Taos County shall be held harmless in any disputes between subdividers regarding shared costs. To that end, the following requirements will apply:

1. The first subdivider who is required to install a 30,000-gallon water supply for fire fighting will be financially responsible for the installation and all associated costs. Any subsequent application for a subdivision that is located within a one mile radius of the previously installed water supply and storage, that proposes to use that water in order to comply with these regulations, must submit proof to the Planning Department that the subsequent subdivider has agreed to pay the original subdivider, who bore the cost of the installation of the water supply and storage, a proportionate amount of that cost. The proportionate amount shall be determined by the number of lots using water. For example, if the original subdivision contained 10 lots and the cost to install the water supply and storage was $1,000, and the subsequent subdivision contains a total of 5 lots, then the second subdivider must deliver proof that he/she offered the original subdivider $333 as his/her share of the cost of installation. ($1,000 divided by 15 lots equals $66 times 5 lots for a total of $333 for the 5 lot subdivision)

2. All on site water storage for fire fighting will be maintained under a recorded Maintenance Agreement that binds all owners and

successors in interest of lots within the subdivision where the water storage is located, and any other property owners who have the right to use the water for fire suppression. The maintenance agreement shall require payment of sufficient dues in order to properly maintain the water storage to insure that it is filled and in working order at all times. The agreement shall also indemnify the County from any liability associated with the maintenance of the water supply.

D. Access for Emergency Vehicles: The subdivider shall build a fifty (50) foot turning circle, a hammerhead turn, or an equivalent turnout every one thousand (1,000) feet along main access roads and a fifty (50) foot diameter cul-de-sac at the end of any dead end road within the subdivision, to accommodate fire apparatus and emergency vehicles. Any subsequent subdivider who is required to use the same improved access road will submit evidence to the Planning Department that he/she has offered the original subdivider a proportional share of the cost in accordance with the shared cost provisions outlined above and those set forth in 4.3.9 (C).

E. Fire Prevention Plan: The subdivider shall submit a fire prevention plan to the Planning Department, which will be sent to the local fire department for agency review under the provisions of Section 4.7 of these Regulations. The fire prevention plan will address defensible space, vegetation management, water supply, access, building ignition, fire-resistance factors, and fire protection systems and equipment.

F. Sprinkler System: Any subdivision located in an area that can only be accessed by a road containing grades in excess of 12%, where such grades extend for 500 lineal feet and are located in a forested area, must include a restrictive covenant requiring all residences in the subdivision to be equipped with an interior sprinkler system with sufficient pressure and supply for fire suppression.

G. Wildland-Urban Interface Areas: Any subdivision located in a Wildland-Urban Interface Area, shown on the Taos County Wildland-Urban Interface Area Map, shall be required to comply with the performance standards and supporting documentation in Appendix D of these Regulations.

4.3.12. Terrain Management: The subdivider shall demonstrate that the subdivision is designed to provide for adequate terrain management. The performance standards and supporting documentation required to make this demonstration are found in Appendix E of these Regulations.

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4.3.13. Cultural Properties: The subdivider shall contact the State Historic Preservation Office to determine whether properties entered into the State Register of Cultural Properties are within the boundaries of the proposed subdivision, and

A. If there are no such properties, a copy of the letter to that effect from the State Historic Preservation Office shall be provided in the application packet for subdivision approval; or

B. If any such properties exist within the boundaries of the proposed subdivision, a copy of the letter to that effect from the State Historic Preservation Division shall be provided in the application package for subdivision approval. Taos County will then consult with the Historic Preservation Division pursuant to the Cultural Properties Act, NMSA 1978, Section 18-6-1 through 18-6-17;

C. A cultural resource survey shall be prepared by a professional archeologist holding a current New Mexico Archeological Survey Permit, to determine if significant archeological sites are identifiable prior to commencement of construction. If significant archeological sites are identified in the cultural resource survey, the requirements of Appendix F, para. B. shall be met by the subdivider.

D. See Appendix F for other requirements.

4.3.14. Disclosure Statement: Taos County's requirements for the contents of disclosure statements are found in these regulations at Appendix G.

4.3.15. Fee Schedule: Taos County's fee schedule is found in Article 10 of these Regulations.

4.3.16. Phased Developments: When the proposed subdivision plat is the first of an integral part of an overall large scale development, then the proposed plat cannot be considered unless accompanied by a Master Development Plan, which shall include an anticipated phasing schedule for the final plats and a schedule of improvements. The Master Development Plan shall contain the following information:

A. A color-coded Development Plan Map drawn to appropriate contour intervals with a legend interpreting the map. Major traffic circulation streets as well as residential, commercial, recreational, educational, industrial and other functional areas shall be indicated.

B. Estimated Total Acreage to be Developed.

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1. Estimated number of plats (stages) anticipated.
2. Estimated timing and staging of plats to be developed.

3. Estimated acreage for the following uses:

   Residential
   Single Family Dwelling
   Multiple Family Dwellings;

   Commercial;

   Industrial;

   Parks, Open Space and Wilderness Area; and

   Community Facilities.

C. Estimated number of Residential Lots:

   1. Under one acre;

   2. One acre to two acres; and

   3. Over two acres.

D. Development Plan Policies relative to Parks, open space, and wilderness areas:

   1. Dedicated park areas for neighborhood community recreation;

   2. Bridle paths, hiking and cycling trails;

   3. Natural or wilderness areas;

   4. Community Facilities. Criteria used in determining size and location. Certification by authorized representatives of local utilities and other service providers shall be obtained. Applicant shall address:

      Recreation facilities;

      Schools;

      Fire and Police;

      Gas and Power;

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Medical facilities, related services;

Water supply assessment in accordance with these Regulations;

Liquid waste system; and

Solid waste system.

5. Residential – Architectural design of homes to be constructed;

6. Transportation Plan;

7. Commercial Areas – number, location, type, restrictions, development and maintenance schedule, criteria used in determining size, who will develop and when, and who will maintain and when.

4.3.17. Conveyances. Regulations for recording conveyances are as follows:

A. Purpose. Recording conveyances of parcels provides anyone interested in acquiring land, and lenders, with important information about the condition of title. Recording conveyances of all parcels also provides public officials with information needed to detect illegal subdividing. The purpose of this information is to protect buyers and lenders and to help enforce the Act and these Regulations by making all conveyances of parcels matters of public record.

B. Requirement. Any person who sells, leases for an initial term plus option terms in excess of five (5) years, or otherwise conveys any interest in any parcel located in whole or in part in the County shall record the deed, lease, memorandum of real estate contract, or other document of conveyance with the County Clerk no later than five (5) days after the closing or thirty (30) days after the date on which the document is signed, whichever comes first. A memorandum of lease may be recorded in lieu of recording the lease itself, as provided in §14-9-1, NMSA 1978.

C. Form and certification. Any deed, lease for an initial term plus option terms in excess of five (5) years, real estate contract, or other document used to convey any interest in any parcel located in whole or in part in the County shall be in a form acceptable for recording and duly acknowledged and certified as required by the provisions of §14-8-4, NMSA 1978.

D. Plat attachment. The deed, lease, real estate contract, or other document of conveyance shall have a survey plat and a legal description of the parcel attached to it. The survey plat shall show the surveyor's seal, the

boundaries of the parcel, the means of access to the parcel, and any easements to which the parcel is subject.

Section 4.4. **Area of notice map / Property owner identification.** The subdivider shall submit an area of notice map showing all parcels within 1000 feet of the exterior boundaries of the property proposed to be subdivided. The applicant shall also identify each parcel within the area of notice map by providing the property code number, if available, names and mailing addresses of those property owners within the notification area.

Section 4.5. **Filing specifications.** The subdivider shall submit twenty-one (21) copies of the preliminary plat, and the supporting documentation to the Planning Department for review and distribution to public agencies.

Section 4.6. **Preliminary Plat Deemed Complete.** On receipt of the application, fees, and all preliminary plat submittal requirements under these Regulations, the Planning Department will review the application submissions to determine if the preliminary plat is ready for review process.

If there are no deficiencies, the preliminary plat application shall be deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. Notice shall be given by certified mail, return receipt requested.

If the preliminary plat application is incomplete or does not comply with the submittal requirements provided herein, the Planning Department shall, within thirty (30) days after the date of application, provide a letter to the applicant deeming the preliminary plat application incomplete. The subdivider shall be notified, by certified mail, return receipt requested, and be given a maximum time period of sixty (60) days to correct the deficiencies and return the preliminary plat and documentation for consideration. If this timeframe is not met, the application process shall begin anew and the preliminary plat application and fees must be resubmitted. An extension of time may be granted by the Planning Director for good cause, upon written request submitted before the sixty (60) day period has run.

Section 4.7. Agency Review / Hearing Deadline

4.7.1. Plat transmittals. Within ten (10) working days after the date that the preliminary plat application is deemed complete, the Planning Department shall forward a copy of the preliminary plat and relevant supporting documentation to the following state and local agencies by receipted delivery, with a request for review and opinions:

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A. New Mexico State Engineer's Office;

B. New Mexico Environment Department;

C. New Mexico Department of Transportation;

D. Historic Preservation Division, Office of Cultural Affairs;

E. Municipality, if proposed subdivision site is within an Extraterritorial Zone;

F. The Soil and Water Conservation District in which the proposed subdivision is located;

G. The local fire department district in which the proposed subdivision is located.

H. Any other public agencies the County considers necessary to determine whether there are adequate facilities to accommodate the proposed subdivision.

4.7.2. 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 Planning Director shall obtain receipts or other proof showing the date the opinion request was received by each state or local agency.

4.7.3. Favorable Opinion. 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 the last 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.

4.7.4. Adverse opinion. If any opinion from a public agency is adverse, the Planning Department 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 from date of notification to respond to the concerns of the appropriate agency. The Planning Department shall forward such additional information upon receipt to the appropriate agency that shall have thirty (30) days after the date the subdivider submits the additional information in order to revise its opinion. The Planning Department shall obtain receipts or other proof showing the date the additional information was received by each state or local agency.

4.7.5. Revised opinion. The Planning Department shall schedule a preliminary plat public hearing for consideration of the preliminary plat 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 preliminary plat public hearing after proper notification. If the final revised opinion of the agency is still adverse, then the subdivider will have the burden of showing that the adverse opinion is incorrect either as to factual or legal matters.

4.7.6. Scheduling the Planning Commission Preliminary Plat Hearing. Public hearings on preliminary plats shall be held within thirty (30) days from the receipt of all requested public agency opinions.

Section 4.8 Public Hearings on Preliminary Plats

4.8.1. Notice by Publication. The subdivider shall be responsible for effecting notice by publication. The subdivider shall publish the first notice of the public hearing at least twenty-one (21) days before the hearing date. The notice of public hearing shall be published twice in a newspaper of general circulation in Taos County.

4.8.2 Notice by Posting: The subdivider shall provide notice of the public hearing by posting a notice of public hearing on a public right-of-way leading to, and/or adjoining the proposed subdivision site, and by posting notice of public hearing at the Taos County Courthouse, the Planning Department, the Taos County Administration Building and the U.S. Post Office in the area where the proposed subdivision is proposed.

4.8.3. Additional Notification. The subdivider shall transmit notice of the public hearing directly to the following:

A. those public agencies that initially received copies of the preliminary plat and supporting documentation with a request for opinion;

B. any interested person who previously requested such notice and provided a stamped, self-addressed envelope for such purpose;

C. owners of property as identified in the records of the Taos County Assessor's Office, that are within 1,000 feet of the exterior boundaries of the land proposed to be subdivided. Notice shall be sent by applicant via certified mail, return receipt requested, and proof of same shall be provided to the Planning Department;

D. the affected neighborhood and /or community associations, acequia associations, and utility companies with easements on the proposed subdivision site.

4.8.4. Content of Notice. All of the above described notices of public hearing on the preliminary plat shall include the following:

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A. Subject of the hearing including the location and legal description of the proposed subdivision and other agenda items;

B. Time, date and place of the hearing;

C. Manner for interested persons to present their views; and

D. Place and manner for interested persons to get copies of any favorable or adverse opinion of the subdivider's proposal.

4.8.5. Participation/Record. At the public hearing, all interested persons shall be allowed a reasonable opportunity to submit data, views, or arguments, orally or in writing, and to examine and cross-examine witnesses testifying at the hearing. A record of the public hearing shall be kept. The hearing shall be tape-recorded. Opinions of the public agencies shall be made part of the record.

4.8.6. Hearing Procedure. Preliminary Plat hearings are quasi-judicial proceedings. The following procedures shall be followed:

A. All interested parties wishing to speak, ask questions, make comments, or make a presentation must sign the speaker list.

B. All speakers providing testimony or evidence shall do so under oath.

C. Planning Department staff shall make a presentation of the proposed subdivision.

D. The applicant, and/or, his/her agent(s) will then be allowed an opportunity to present the application.

E. The Planning Commission will then allow the audience an opportunity to ask questions of the applicant or his or her agent(s).

F. The Planning Commission will then allow sworn testimony to be given by anyone speaking for, or against, the proposed subdivision.

G. All individuals providing testimony or evidence are subject to cross-examination.

H. The Planning Commission may impose reasonable limitations on the number of witnesses heard, the content and length of witness testimony, and the questioning conducted by the applicant and other interested parties.

I. The Planning Commission will close public input and testimony for the purpose of allowing the Planning Commission to deliberate.

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J. The Planning Commission shall prepare a written decision that contains findings of fact and conclusions of law.

4.8.7. Action. The Planning Commission shall recommend to the Board of County Commissioners approval, approval with conditions, or disapproval of the preliminary plat at the public hearing. The written recommendations of the Planning Commission shall be filed in the County Clerk's office within thirty (30) days of the hearing, and a copy of the decision shall be mailed to the subdivider upon its filing.

Recommendations for preliminary plat approval shall not be given by the Planning Commission unless the Planning Commission determines that the subdivider can fulfill proposals contained in the disclosure statement and that the subdivider's proposal conforms with the New Mexico Subdivision Act and with these Regulations.

4.8.8. Hearing Before the Board of County Commissioners. Within thirty (30) days after the filing of the recommendations of the Planning Commission on a preliminary plat, the Board of County Commissioners shall approve, approve with conditions, or disapprove the preliminary plat at a public hearing of the Board of County Commissioners. The Board of County Commissioners shall file its written decision in the County Clerk's office within thirty (30) days of the hearing, and a copy of the decision shall be mailed to the subdivider upon its filing. Appeal from a decision of the Board of County Commissioners shall be made pursuant to Article 11.

4.8.9. Hearing Procedures. Uniform procedures shall be observed, with discretion to amend as is deemed necessary by the Planning Commission. Hearings shall be conducted in accordance with Robert's Rules of Order, as amended, and the following guidelines:

A. Only interested persons, their agent or attorney, and Taos County staff will be allowed to address the Planning Commission.

B. All speakers shall be sworn in by a Notary Public, and cross-examination by interested persons, staff, or Planning Commission will be allowed.

C. The applicant shall speak first. The applicant shall have a reasonable amount of time, as determined by the Planning Commission's chairperson, in which to present applicant's(s') position.

D. The applicant(s) shall have a reasonable amount of time, as determined by the Planning Commission's chairperson, in which to present the application.

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E. Planning staff shall make its presentation.

F. Interested persons supporting or opposing the application shall be allotted three (3) minutes each to speak.

G. Time allotted to speakers shall be monitored by a Taos County staff person.

H. The chairperson shall have the right to prevent repetitious and repetitive statements by asking any speaker who is being repetitious to end his/her remarks and, if appropriate, to leave the podium or floor.

I. The chairperson shall have the right to take any and all appropriate actions to insure that preliminary plat hearings are orderly and equitably conducted so that all persons having a right to speak shall have the opportunity to do so. Only the speaker having the floor shall be allowed to speak. Members of the public attending the hearing shall not speak, comment, or disrupt, when another has been given the floor by the chairperson.

J. The chairperson shall enforce the rules, and may, at his option, appoint a Sergeant at Arms to assist in enforcing these rules.

K. The Planning Commission, in its discretion, may deliberate in executive session; and final action on recommendations shall occur in open meeting.

L. Written recommendations by the Planning Commission shall be filed in the Office of the County Clerk within thirty (30) days of the hearing.

Section 4.9. Expiration of Preliminary Plat

4.9.1. Effective Period of Preliminary Approval: The approval of a preliminary plat shall be effective for a period of two (2) years, during which time application for final plat approval must have been submitted. If the subdivider fails to submit a final plat for approval within the two (2) -year period, approval or conditional approval of the preliminary plat shall be deemed expired and of no force and effect.

4.9.2. Extension. Before the expiration date of the approved or conditionally approved preliminary plat, the subdivider may submit to the Planning Commission an application for extension of the preliminary plat for a period of time not exceeding an additional twelve (12) months.

4.9.3 Phased Development Extension. If the preliminary plat was approved as a phased development in accordance with the provisions of 4.3.16, the subdivider may file final plats for portions of the development, and the expiration date of the preliminary plat shall be extended 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 Planning Commission at the time of approval or conditional approval of the preliminary plat.

4.9.4. Expiration. The expiration of an approved or conditionally approved preliminary plat shall terminate all proceedings on the subdivision, and no final plat shall be filed until the developer submits a new application for preliminary plat approval consistent with these Regulations. Fees must also be resubmitted.

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ARTICLE 5. FINAL PLAT REVIEW PROCESS

Section 5.1. Final Plat Submittal. Once the preliminary plat has been approved by the Board of County Commissioners at an public hearing and the appeal deadline set forth in Article 11 has passed, the subdivider shall be entitled to submit a Final Plat to the Planning Department.

Final plat submittal is initiated by completing an application on a prescribed form available from the Planning Department, which shall review all materials in order to determine whether the final plat is complete in accordance with the data requirements listed below. If there are no deficiencies, the final plat will be deemed complete for review by written notice, via certified mail, return receipt requested, to the subdivider within thirty (30) days after the date of application. If the final plat is incomplete or does not comply with the data requirements provided herein, the subdivider shall be notified and will be given a maximum time period of thirty (30) days to correct the deficiencies and return the final plat for consideration.

Section 5.2. Final Plat Requirements

5.2.1 Conformity with Preliminary Plat. The final plat shall conform substantially to the preliminary plat and all supporting documentation contained therein, as approved. If desired by the subdivider, the final plat may constitute only that part of the approved or conditionally approved preliminary plat that the developer proposes to record and develop at the time of submission of the final plat.

5.2.2 Filing specifications. Final plat maps shall be prepared at a scale of two hundred (200) feet to one (1) inch or larger, and printed on sheets no larger that twenty-four by thirty-six (24 x 36) inches. Sheets shall be numbered in sequence if more than one sheet is used. If available, provide an electronic or digital version of the plat.

5.2.3 Map specifications. The final plat map shall include the same information as shown on the preliminary plat, except for any changes or additions recommended by the Planning Commission and required by the Board of County Commissioners. In addition, the final plat shall indicate the following:

A. Name of subdivision, scale, north arrow, and date;

B. The certification and seal of a registered land surveyor, who shall be licensed in accordance with the laws of the State of New Mexico, certifying to accuracy of the survey and plat, the date of the survey, and that the same have been prepared by him, and that he has shown all easements of record.

C. All survey monuments and benchmarks together with a description of all dimensions: angles, bearings, and similar data.

D. The tract boundary lines, easement and right-of-way lines, and property lines of residential lots and other sites in the area being subdivided with accurate distances in feet and hundredths of feet, and bearing in degrees, minutes and seconds with the basis for bearings noted or shown and a tie to the Federal Section Land System, or established triangulation points.

E. Total acreage of the subdivision with legal description indicating the range, township, and/or land grant, and section within which the subdivision is located.

F. The name, right-of-way width, and centerline of all proposed streets and alleys and the centerlines of the street right-of-way with dimensions between intersection center lines or the subdivision's boundary lines.

G. The property line of adjoining lands and the name, right-of-way width and centerlines of adjacent streets and alleys.

H. Number of each lot in progression, with all dimensions, both linear and angular, necessary for locating boundaries of subdivisions, lots, streets, alleys, easements, building lines and any other areas for public or private use or for the use of the owners of lots fronting on or contiguous to the land. The linear dimensions are to be expressed in feet and hundredths of a foot.

I. Reference to recorded subdivision plats of adjoining platted land by recorded name, date, book and page number in the Office of the County Clerk.

J. Certification of title with a statement that the subdivision is created with the free consent and in accordance with the desire of the undersigned owner of land, and acknowledged in a manner required for acknowledgment of deeds.

K. The names of the owner or owners of the subdivision, and the developer if other than the owner.

L. Signed statements by the subdivider dedicating public right-of-way, and sites for public use, and granting the shown easements for public use with location, dimensions, and purpose of all easements and dedicated public sites.

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M. Accurate description of legal access to, roads to, and utility easements for each lot, and if the access or easement is based upon an agreement, the recording data in the land records of the agreement.

N. Delineation of any flood plain as designated by the Federal Emergency Management Agency.

5.2.4 Other Data Requirements

A. Certification by authorized representatives of the local electric, gas and telephone utilities that their system needs have been met. The Board of County Commissioners may waive this certification if, after a hearing, the Board of County Commissioners finds that the utility's desires are unreasonable or not in the public interest.

B. A certificate by the Planning Department certifying that the subdivider has complied with one of the following:

1. That all improvements required under the preliminary plat approval have been installed in accordance with the requirement of these Regulations.

2. An Agreement to Assure Completion of Infrastructure, secured by a form of financial security in sufficient amount to assure completion of all required improvements under the terms of the decision to approve the preliminary plat.

C. Other Data: Such other certificates, affidavits, endorsements, or data as may be required by the New Mexico Subdivision Act or as may be specified elsewhere herein.

5.2.5. Affidavit. The final plat shall contain a statement that the land being subdivided is subdivided in accordance with the final plat and all supporting documentation. The final plat shall be acknowledged by the owner and subdivider or their authorized agents in the manner required for the acknowledgment of deeds. Every final plat submitted to the County Clerk shall be accompanied by an affidavit of owner and subdivider or their authorized agents, stating whether or not the proposed subdivision lies within the subdivision regulation jurisdiction of the County.

5.2.6. Dedication. The final plat shall contain a certificate stating that the Board of County Commissioners, or a Homeowners Association, has accepted, accepted subject to improvement, or rejected, on behalf of the public, any land or easements offered for dedication for public use in conformity with the terms of the offer of dedication. If the dedication is made to a Homeowners

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Association, then the Homeowners Association articles, by-laws, restrictive covenants, and a Road Maintenance Agreement in conformance with these Regulations shall be filed along with the approved plat at the office of the County Clerk. Acceptance of offers of dedication on a final plat shall not be effective until the final plat is filed in the Office of the County Clerk or a resolution of acceptance by the Board of County Commissioners or Homeowners Association is filed in such office.

5.2.7. Improvement Requirements. The subdivider shall install and construct all improvements required by these Regulations in the manner and to the design standards provided in these Regulations. The Planning Department will identify the required improvements for each subdivision based on the type and location of the proposed subdivision. Before the construction of any improvements, or the submission of any bond or other improvement guarantee, the subdivider shall furnish the County with all plans necessary for the construction of such improvements. These plans shall be reviewed by the County Planning Director and, if in accordance with these Regulations, shall be approved by the County, allowing the subdivision development to proceed.

5.2.8. Agreement to Assure Completion of Infrastructure. If the subdivider wishes to obtain final plat approval for the subdivision prior to completing all of the improvement requirements under these Regulations, the County shall enter into an Agreement to Assure Completion of Infrastructure with the subdivider. This agreement shall constitute a binding contract between the subdivider and the County and shall be in substantially the same form as the Agreement to Assure Completion of Infrastructure attached as Appendix H to these Regulations. The agreement shall be secured by bond, letter of credit, escrow deposit, or other method acceptable to Taos County in an amount not less than 110 percent of the estimated cost of the required improvements. A New Mexico licensed engineer shall complete the estimate of costs.

Section 5.3. Decision on Final Plat

5.3.1. Action. Final plats submitted to Taos County for approval shall be approved or disapproved by the Board of County Commissioners at an open meeting within forty-five (45) days after the date the final plat is deemed complete.

5.3.2. Denial. The Board of County Commissioners shall not deny a final plat if it has previously approved a preliminary plat for the proposed subdivision and it finds that the final plat is in substantial compliance with the previously approved preliminary plat. Denial of a final plat shall be accompanied by a finding identifying the requirements that have not been met. If the final plat is denied by the Board of County Commissioners, the reasons for the denial shall be referenced and attached to two (2) copies of the proposed final plat, and such

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action shall be dated and verified by the signature of the Chairman of the Board of County Commissioners and affixed to said copies.

5.3.3. Failure to Act. If the Board of County Commissioners does not act upon a final plat within 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 after that notice, the Board of County Commissioners shall, upon demand by the subdivider, issue a certificate that the final plat has been approved.

5.3.4. Effect of Approval of Final Plat The Board's approval of the Final Plat incorporates all of the requirements that were made part of its approval of the preliminary plat.

5.3.5. Recording of Approved Plat. The final plat is in force and effect only after the applicant has recorded it in the office of the County Clerk. Such approval shall be recorded on the face of the original drawing of the final plat and on two copies thereof and such approval shall be dated and verified thereon by the signatures of the Chairman of the Board of County Commissioners, the Planning Director, and the County Engineer (if one is available on a permanent or consultant basis), and such a date and signatures shall be affixed by the use of black permanent ink. One of the signed copies shall be returned to the subdivider, the other shall become a part of the files of the County Clerk's Office, and the original drawing of the same shall be recorded and retained in the Office of the Taos County Clerk. None of the requirements of this paragraph shall be modified or waived.

Section 5.4 Requirements Prior to Sale, Lease or Other Conveyance

It is unlawful to sell, lease, or otherwise convey land within a subdivision or to make application for building permits within a subdivision or to make application for utility connections within a subdivision before the following conditions have been met:

5.4.1. Final plat approval. The final plat shall be approved by the Board of County Commissioners and shall be filed with the county clerk. If a subdivision lies within more than one county, the final plat shall be approved by the Board of County Commissioners of each county in which the subdivision is located and shall be filed with the County Clerk of each county in which the subdivision is located.

5.4.2. Relevant documents. The subdivider shall furnish the Board of County Commissioners a sample copy of sales contracts, leases and any other documents that will be used to convey an interest in the subdivided land.

5.4.3 Corner monuments. All corners of all lots and blocks within a subdivision shall be permanently marked with metal stakes in the ground in accordance with minimum standards for surveying in New Mexico.

Section 5.5 Advertising Standards

5.5.1. Filing requirements. Copies of all brochures, publications, and advertising relating to subdivided land shall be filed with the Board of County Commissioners and the Attorney General within fifteen (15) days after initial use by the subdivider.

5.5.2. Requirements/Restrictions. Brochures, disclosure statements, publications, and advertising of any form relating to subdivided land shall:

A. not misrepresent or contain false or misleading statements of fact;

B. not describe deeds, title insurance, or other items included in a transaction as "free" and shall not state that any lot is "free" or given as an "award" or "prize," if any consideration is required for any reason;

C. not describe lots available for "closing costs only" or similar terms unless all such costs are accurately and completely itemized; or when additional lots must be purchased at a higher price;

D. not include an asterisk or other reference symbol as a means of contradicting or substantially changing any statement;

E. accurately portray, if subdivision illustrations are used, 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;

F. not contain artists' conceptions of the subdivision or any facilities within it unless clearly labeled as such, and shall not contain maps unless accurately drawn to scale with the scale indicated;

G. 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

H. refer to the location where the subdivider's disclosure statement may be obtained.

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ARTICLE 6. SUMMARY REVIEW

Section 6.1. Summary Review Procedure

6.1.1. Qualifications. Unless the real property has been previously identified in the County Comprehensive Plan or County Land Use Regulations as an area subject to unique circumstances or conditions that require additional review, the following types of subdivisions shall be submitted to Taos County under summary review procedure:

A. Type Three subdivisions containing five (5) or fewer parcels of land, unless the property has been previously identified in the County Comprehensive Plan or County Land Use Regulations as an area subject to unique circumstances or conditions that require additional review;

B. All Type Five subdivisions, unless the property has been previously identified in the County Comprehensive Plan or County Land Use Regulations as an area subject to unique circumstances or conditions that require additional review.

6.1.2. Administrative Decision. All subdivisions under summary review shall be approved or disapproved administratively by the Planning Director, unless a variance is requested pursuant to 9..4 of these Regulations. In that case, the Planning Commission shall approve or disapprove the variance and the subdivision.

6.1.3. Conference required. A pre-application conference is required before application for summary review and approval. The pre-application process is described in Article 3 of these Regulations.

6.1.4. Application / fees. A subdivider shall prepare a summary review plat and supporting documentation in accordance with the requirements provided in these Regulations. The summary review plat shall be considered as a final plat suitable for filing with the County Clerk, if approved. Summary review plat submittal is initiated, after the pre-application conference, by completing an application on a prescribed form obtainable from the Planning Department, and upon payment of the required administrative fees.

Section 6.2. Summary Review Requirements

6.2.1. Minimum Lot Size. Minimum lot size requirements found in section 4.2. of these Regulations apply to summary review subdivisions.

6.2.2. Filing Specifications. The original drawing of the summary review plat shall be submitted in waterproof ink on Mylar or acetate or other durable material suitable

for reproducing copies. Summary review plat maps shall be drawn at a scale of two hundred (200) feet to one (1) inch or larger and printed on sheets no larger than twenty-four by thirty-six (24 x 36) inches. The subdivider shall submit the necessary copies of all documents and plans. If available, provide an electronic or digital version of the plat.

6.2.3. Map specifications. The summary review plat map shall include the following information:

A. title, scale, north arrow, and date;

B. name and mailing address of subdivider and designated agent, if any;

C. names of owners of land to be subdivided and names of owners of contiguous property;

D. subdivisions boundary lines, easement and right-of-way lines, and property lines of all lots, with accurate dimensions, and ties to monuments;

E. acreage measurements and identification numbers for each lot;

F. location, dimensions, and purpose of all easements;

G. delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency (FEMA);

H. the certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey;

I. legal description indicating the range, township and section within which the subdivision is located;

J. existing and proposed utilities on the site and existing utilities adjacent to the site;

K. locations, dimensions, and purpose of any land to be dedicated to the public use, including any improvements to be made to that land;

L. location of subdivision in relation to well-known landmarks;

M. location of archeological, historical, or culturally significant features on the site;

N. geological stability information to determine if building or other problems may arise from construction in the area proposed for development;

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O. a vicinity map showing at minimum all sides of the proposed subdivision, which may be of a different scale than the plat (for example, a USGS quadrangle map with scale of 1" = 2000 ft.).

P. a master utility plan showing proposed plan for private and public utility systems including water, sewer, electric, gas, drainage, telephone, telecommunications, and any other services that will supply the property;

Q. names of property owners adjacent to the proposed subdivision for platted and unplatted land;

R. name of acequia and acequia association; and

S. identify areas of 20% slope or greater.

6.2.4. Affidavit. The summary review plat shall contain a statement that the land being subdivided will be subdivided in accordance with the summary review plat. The summary review plat shall be acknowledged by the owner and subdivider, or authorized agents, in the manner required for the acknowledgement of deeds. Every summary review plat submitted to the County Clerk as a final plat shall be accompanied by an affidavit of the owner and subdivider, or authorized agents, stating whether the proposed subdivision lies within the subdivision jurisdiction of the County.

6.2.5. Road Improvements and Utility Installations. All road improvements and utility installations shall be in conformance with Appendix C of these Regulations.

6.2.6. Dedication of Roads: As required by the Planning Department, the subdivider shall dedicate access roads, and roads within subdivisions as follows:

A. "Dedicated to private use" is an easement or land conveyance granted by the property owner for use by the owners of property within the subdivision and accepted by a Homeowners Association. All roads that are accepted by Homeowners Associations will be maintained under a recorded Road Maintenance Agreement entered into by and between the owners of the subdivision. The agreement shall assess sufficient annual dues to owners so that the shared roads can be properly maintained.

B. "Dedicated to public use" is an easement or land conveyance granted by the property owner for use by the public and accepted by a Homeowners Association, or the County. All roads that are accepted by Homeowners Associations will be maintained under a recorded Road Maintenance Agreement entered into by and between the owners of the subdivision.

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C. "Dedicated to public use and accepted by the County" is an acceptance of land or easement by the County on behalf of the public for public use.

D. "Dedicated to the County and accepted for maintenance" is an acceptance of land or easement by the County on behalf of the public for public use and an acceptance of responsibility to maintain the road.

E. The summary review plat shall contain a certificate stating that the Board of County Commissioners or a Homeowners Association has accepted, accepted subject to improvement, or rejected, on behalf of the public, any land or easements offered for dedication for public use in conformity with the terms of the offer of dedication. If the subdivision is subject to a Road Maintenance Agreement, it shall be filed along with the approved plat. If the dedication is made to a Homeowners Association and accepted, then the Homeowners Association articles and restrictive covenants shall be filed along with the approved plat at the office of the County Clerk. Acceptance of offers of dedication on a final plat shall not be effective until the final plat is filed in the Office of the County Clerk and a resolution of acceptance by the Board of County Commissioners or Homeowners Association is filed in such office.

6.2.7. Disclosure Statement. The subdivider shall prepare a disclosure statement in accordance with the standardized format provided in Appendix G of these Regulations. It is unlawful to sell, lease or otherwise convey land in a subdivision until the required disclosure statement has been filed with the County Clerk, the Board of County Commissioners, and the Attorney General's Office, and the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement.

6.2.8. Advertising Standards. The advertising standards covering the sale, lease, or other conveyance of subdivided land provided in section 5.5 of these Regulations shall be applicable to summary review plats.

6.2.9. Legal Access: The subdivider is required to demonstrate that the subdivision is benefited by an access easement to the subdivision that is, at minimum, twenty feet (20') in width and which does not exceed five hundred feet (500') in length. The supporting documentation required to make this demonstration will be in the form of a recorded legal conveyance of real property rights or a court order. The summary review plat shall contain an 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 of the agreement.

6.2.10. Maximum Water Use. The subdivider shall demonstrate that the maximum annual water usage of the subdivision conforms with the following limitations:

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A. For each lot within the subdivision, the maximum annual indoor water usage will be 0.5 acre feet per lot. In critical management areas and stream corridor areas, indoor water use may be further limited from the 0.5 acre feet per lot. In areas where groundwater would be supplied from geologic formations that yield minimal amounts of water, i.e. less than 3 gallons per minute, indoor use may be further limited from 0.50 acre feet per lot. In areas where the seasonal high water table is 4 feet or less, indoor use may be further limited from the 0.50 acre feet per lot.

B. In areas where the seasonal high water table is four (4) feet or less, Taos County may reject the application, require larger lot sizes or less density as in cluster housing, or require a community water system.

C. In areas within a Critical Management Area or Stream Corridor Area, where each lot will be served by one (1) individual well or where two (2) or more lots share a domestic well, the subdivider shall obtain, prior to the approval of a proposed subdivision by the Board of County Commissioners, a valid water right from within the Critical Management Area or Stream Corridor Area that changes the place or purpose of use of the water to offset depletions within the area.

D. No water usage limitation contained in this section shall affect any surface water rights that attach to any lot within the subdivision.

6.2.11. Fire Protection

A. Fire Prevention Plan: The subdivider shall submit a fire prevention plan to the Planning Department. The fire prevention plan will address defensible space, vegetation management, water supply , access, building ignition, fire-resistance factors, fire protection systems and equipment.

B. Emergency Access: There shall be a fifty (50) foot turning circle, a hammerhead turn or equivalent turnout every one thousand (1,000) feet along the main access roads and a fifty (50) foot diameter cul-de-sac at the end of any dead end road within the subdivision, to accommodate fire apparatus and emergency vehicles.

C. On-Site Water Storage: The subdivider may be required to provide on-site water storage for fire suppression, including a hydrant(s) with proper hose fitting, if the Planning Department determines that the local fire department could not reasonably be able to deliver 30,000 gallons of water to the site within two (2) hours of the call. Should it be deemed necessary for the applicant to provide fire suppression water storage tank(s), hydrant and fire hose fittings, the subdivider shall provide the

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Planning Department with a Maintenance Agreement to be recorded with the Taos County Clerk, which agreement will bind all owners of property who have the right to use the water for fire suppression and their successors in interest. The Maintenance Agreement shall require payment of sufficient dues to properly maintain the water storage system and to insure that it is filled and in working order at all times. The agreement shall also indemnify the County from any liability associated with maintenance of the water storage system and water supply.

D. Sprinkler System: Any subdivision located in an area that can only be accessed by a road containing grades in excess of 12%, where such grades extend for 500 lineal feet and are located in a forested area, must include a restrictive covenant requiring all residences in the subdivision to be equipped with an interior sprinkler system with sufficient pressure and supply for fire suppression.

6.2.12. Water Availability

A. If the source of water supply will be an existing community 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 requirements for the subdivision.

B. If the subdivision is located in a Critical Management Area or a Stream Corridor Area the water conservation requirements described in Section 4.3.4. shall apply.

C. If the subdivider proposes that the source of water shall be domestic 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.

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4. Any additional information that is necessary to demonstrate the capability to meet the water requirements of the proposed subdivision.

5. The Planning Director shall, upon receipt of sufficient data from the ongoing water supply studies, identify areas within Taos County where the water supply concerns may require that density limitations be placed upon subdivision applications.

D. If the Planning Department determines, based upon the above described water availability assessment, that the proposed summary review subdivision is located in an area where the well produce 3 gallons per minute or less, or in an area where the seasonal high water table is 4 feet or higher, then the Planning Department may deny the application or require larger lot sizes.

E. If the subdivider proposes to provide new wells or surface diversion for a community water system, the requirements of Appendix A shall apply.

6.2.13. All Summary Review applicants must comply with the Regulations contained in Appendix B, Liquid and Solid Waste Disposal.

6.2.14. Water Conservation Requirements: The subdivider shall demonstrate that water conservation requirements have been met. These water conservation measures shall be included in the subdivision disclosure statement and covenants and deed restrictions. Requirements are as follows:

A. Well Shares: For subdivisions where the source of water will be domestic wells permitted pursuant to Section 72-12-1, shared well systems may be required. Shared wells shall be in accordance with the following standards:

1. The maximum number of lots served by one well shall not exceed six (6). The determination of the number of lots to be served by a well will be dependent upon the topography of the subdivision and the size of the lots within the subdivision. At the discretion of the Planning Department, and, to the extent practicable, shared wells will serve the greatest number of lots up to 6 lots.

2. The subdivider shall drill the well that will serve each cluster of homes, install the pump and pressure tank, and water distribution line to the pump and pressure tank, and water distribution line to the perimeter of each lot. Lot purchasers are generally responsible for installing a water

service line from the distribution line to the home they build and a water meter at each residence.

3. All shared wells shall be governed by a shared well agreement approved by the Planning Department. All shared wells shall be metered. Land and water use covenants and restrictions prepared by the subdivider shall stipulate that lot purchasers in each cluster of homes will be entitled to use the maximum portion allowable under these regulations of the permitted water right associated with each well; and lot purchasers will be responsible for the assessment and collection of fees, and the operation and maintenance of the water system.

B. All subdivisions shall contain covenants requiring the use of plumbing fixtures, dishwashers, water-using appliances, and gray water systems to conform to the Uniform Plumbing Code, and any other applicable regulations.

C. Where water pressure at the customer service connection exceeds 80 pounds per square inch (psi), a pressure-reducing valve shall be installed.

6.2.15. Terrain Management: If the subdivision is located in an area where there are slopes of 20% or greater or is located within a flood plain, the subdivider shall demonstrate that the subdivision is designed to provide for adequate terrain management. The performance standards and supporting documentation required to make this demonstration are found in Appendix E of these Regulations.

6.2.16. Cultural Properties. All Summary Review subdividers must comply with the provisions contained in Section 4.3.13. (A), (B), and (D) of these Regulations.

6.2.17. Agency Opinion. Any Summary Review applicant may be required by the Planning Department to obtain an agency opinion as set forth in Section 4.6 of these Regulations. If such opinion is required, the Planning Department will deliver to the applicant, in writing, an explanation of why the agency opinion is required, along with an identification of the particulars of the Summary Review Application that give rise to a requirement of agency opinion.

6.2.18. Improvement Requirements. The subdivider shall install and construct all improvements required by these Regulations in the manner and to the design standards provided in these Regulations. The Planning Department will identify the required improvements for each subdivision based on the type and location of the proposed subdivision. Before the construction of any improvements, or the submission of any bond or other improvement guarantee, the subdivider shall furnish the County with all plans necessary for the construction of such improvements. These plans shall be reviewed by the County Planning Director

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and, if in accordance with these Regulations, shall be approved by the County, allowing the subdivision development to proceed.

6.2.19. Agreement to Assure Completion of Infrastructure. If the subdivider wishes to obtain approval for the summary review subdivision prior to completing all of the improvement requirements under these Regulations, the County may enter into an Agreement to Assure Completion of Infra-Structure with the subdivider. This agreement shall constitute a binding contract between the subdivider and the County and shall be in substantially the same form as the Agreement to Assure Completion of Infrastructure, which is attached as Appendix H to these Regulations. The agreement shall be secured by bond, letter of credit, escrow deposit, or other method acceptable to the County in an amount not less than 110 percent of the estimated cost of the required improvements. A New Mexico licensed engineer shall complete the estimate of costs.

6.2.20. Retained land: Any land retained by the applicant that is adjacent to the approved summary review subdivision is subject to a five (5) -year holding period prior to any conveyance of the retained land. However, nothing in this section prevents the applicant from using an exemption other than 13 or subdividing the retained land under the provisions of these Regulations, and such will terminate the five (5) –year holding period.

Section 6.3. Appeal Procedures for Summary Review Subdivisions.

Any subdivider or interested party that is adversely affected by a decision of the Planning Director related to approval or disapproval of a summary review subdivision, or a decision of the Planning Commission related to a variance request, may appeal the decision as set forth in Article 11 of these Regulations.

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ARTICLE 7. MOBILE HOME PARK SUBDIVISIONS

Mobile Home Parks, whether for lease, sale, or other conveyance, or any combination thereof, are subdivisions. Accordingly, preliminary plat and final plat procedures pursuant to Articles 4 and 5 of these Regulations apply; except that if the mobile home park qualifies under summary review subdivision procedures, Article 6 applies. In addition, the following requirements shall apply to all mobile home park subdivisions:

Section 7.1. Sketch Plan.

For all Mobile Home Parks, the applicant shall submit a sketch plan that:

A. Depicts proposed land use for the entire land area set forth in the application.

B. Encompasses the entire boundaries of the tract proposed for development and indicates existing conditions and development for the additional surrounding area at least two hundred feet (200') from the exterior tract boundaries.

C. Is drawn at a convenient scale.

D. Depicts, with appropriate dimensions, an arrangement of buildings and storage locations, and their uses, off-street parking and loading facilities, *internal automobile and pedestrian circulation, ingress and egress from* adjoining streets, roads or highways, service area and facilities, drainage systems, landscaping, fences and walls, and the size, location and type of all signs proposed.

Section 7.2. Design Standards.

All mobile home parks shall comply, and be reviewed for compliance, with design standards set forth as follows:

7.2.1. Location of the mobile home park shall be on a well-drained site, properly graded to insure rapid drainage of the site.

7.2.2. Lots throughout shall be well-defined and delineated.

7.2.3. Each mobile home shall be supported in such manner as provided in the rules and regulations specified by the New Mexico Mobile Housing Commission.

7.2.4. A mobile home park subdivision shall be limited to a maximum of eight (8) mobile home spaces per acre.

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7.2.5. Location of mobile homes on each space so as to provide:

A. At least a twenty foot (20') clearance between the mobile homes;

B. Location of mobile homes not closer than ten feet (10') from any mobile home lot line or from any building on any adjacent property within the park, including small individual storage units, or other structures such as porches or portals or any property line of the park which does not abut upon a public street or highway;

C. Location of mobile homes not closer than twenty-five feet (25') from any property line of the park abutting upon a public street or highway, or such other distance as may be established by ordinance or regulation as front yard setback with respect to conventional buildings in the district in which the mobile home park is located.

D. For the purpose of this section, the distance between mobile homes must be calculated to include any porch, attached room or deck, or any similar addition or improvement.

7.2.6. Two (2) off-street parking spaces for each mobile home lot shall be provided. Such parking spaces shall be paved or graveled.

7.2.7. Walkways from all mobile home lots to all common areas within the mobile home park shall be provided, and such walkways shall be not less than thirty-six inches (36") in width and constructed of hard surface material (e.g. concrete, asphalt, brick or flagstone).

7.2.8. All mobile home parks shall provide shielded lighting.

7.2.9. Public dedicated roads shall meet all right-of-way requirements and subdivision design standards set forth in Appendix C – Roads & Utilities.

7.2.10. The perimeter of the mobile home subdivision and any open spaces within the subdivision shall be landscaped and fenced (six feet (6') at minimum) to blend as closely as possible with the surrounding land contours and vegetation.

7.2.11. A step pad located adjacent to the mobile home shall be provided and constructed of hard surface material (e.g. concrete, asphalt, brick or flagstone).

7.2.12. Entrance roadways to the mobile home subdivision shall be designed in accordance with current traffic engineering criteria and shall be subject to the approval of the Planning Director.

7.2.13. Service buildings, if provided, shall comply with the standards prescribed by the Planning Department and Taos County building standards.

7.2.14. All service buildings and common areas of the mobile home park subdivision shall be maintained in a clean condition and kept free of a condition or conditions that might endanger the health and safety of any occupant and the public.

7.2.15. Any manufactured home must be skirted with fire-resistant materials with at least a one-hour fire rating.

Section 7.3. Disclosure Statement.

Prior to renting, leasing or selling any lot within a mobile home park subdivision, the developer shall provide the prospective tenant, lessee, or purchaser with the required written disclosure statement in order that the prospective tenant, lessee or purchaser may make an informed decision whether or not to rent, lease, purchase, or otherwise accept a conveyance of the lot(s) in the mobile home park subdivision. See Appendix G.

Section 7.4. Appeal Procedures for Mobile Home Park Subdivisions.

Appeal procedures for Mobile Home Park Subdivisions are the same as for any other type of subdivision, and are set forth in Article 11 of these Regulations.

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ARTICLE 8. ADDITIONAL REGULATIONS.

Section 8.1 Cluster Housing Development

Cluster housing developments are expressly allowed under these Regulations without requiring variance approval for minimum lot sizes.

Clustered housing development is a form of development that permits reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in overall density, and the remaining land area is devoted to open space, active recreation, or preservation of environmentally sensitive areas or agriculture.

Clustered Housing Developments are subject to all of the requirements of these Regulations.

Section 8.2. Further Divisions of Previously-Approved Subdivisions

Previously-approved subdivisions, including those approved under summary review procedures, may not be further divided, unless the final plat of the previously-approved subdivision or supporting documentation that is part of the previously-approved subdivision includes an express provision for further division of the lots on the final plat, and the number of further divisions shall be limited to the number expressed on the plat. The use of an exemption(s) to the definition of a subdivision is also prohibited within a previously approved subdivision.

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ARTICLE 9. SPECIAL PROCEDURES.

Section 9.1. Succeeding Subdivisions and Master Development Plan.

9.1.1. Succeeding Subdivisions. Any proposed subdivision may be combined with a previous subdivision and upgraded for classification purposes by the Planning Commission, if the proposed subdivision includes:

A. A part of a previous subdivision that was created in the preceding seven (7) year period; or

B. Any land retained by a subdivider after creating a previous subdivision, if the previous subdivision was created in the preceding seven (7) year period.

9.1.2. Master Development Plan.

A. If the proposed plat is the first or an integral part of an overall large-scale development, then the Planning Director shall inform the subdivider that the proposed plat cannot be considered until a Master Development Plan is submitted for Planning Commission approval. The Master Development Plan shall comply with provisions specified in section 4.3.16. of these Regulations.

B. For all subdivisions, the Planning Commission may grant preliminary plat approval of an initial development phase and defer approval of subsequent phases; and further, the Board of County Commissioners may set criteria for development of the first phase as a condition for approval of subsequent phases.

Section 9.2. Resubdivison.

All or a portion of any final plat filed in the office of the County Clerk may be resubdivided by the same procedures prescribed in these Regulations for the subdivision of land.

Resubdivision is any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of regulations controlling subdivisions.

Any alteration of boundaries within an approved subdivision that increases the number of lots and/or reduces lot size shall be subject to scrutiny pursuant to the New Mexico Subdivision Act and these Regulations. The Planning Department may require the subdivider to submit documentation deemed necessary to ensure the public health,

safety, and welfare. This procedure is necessary where the character of an approved subdivision has been changed so as to negate the information in the original disclosure statement or where the character has changed in a subdivision where no disclosure statement was originally filed so that a determination can be made as to whether a disclosure statement or an amendment to the original disclosure statement will be required.

Section 9.3. Vacation of Plats

9.3.1. Cause. 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 their desire that the final plat or a portion of the final plat be vacated, and the statement is approved by the Board of County Commissioners; or

B. the Board of County Commissioners finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.

9.3.2. Statement of vacation. The vacation of all or a portion of a final plat shall be initiated by submittal of the statement of vacation to the County Clerk, along with the names of all owners of record of property within the subdivided land to be vacated and the names of all owners of record of property contiguous to the subdivided land to be vacated.

9.3.3. Scheduling and notification. Within sixty (60) days after the date of receipt of the statement of vacation, the Board of County Commissioners shall approve or deny the vacation, subject to the following:

A. Action shall be taken at a public hearing.

B. At least fifteen (15) days before the proposed hearing, all owners of record of property within the subdivided land to be vacated and all owners of record of property contiguous to the subdivided land to be vacated shall have been notified by certified mail return receipt requested, of the proposed vacation and the date, time and place of the public hearing at which the vacation will be considered by the Board of County Commissioners.

C. Relevant utilities and other agencies shall be notified.

9.3.4. Action. In approving the vacation of all or a part of a final plat, the Board of County Commissioners shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision

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being vacated. In approving the vacation of all or a portion of a final plat, the Board of County Commissioners may require that roads dedicated to the County in the final plat continue to be dedicated to the County.

9.3.5. Filing. 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. 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.

9.3.6. Utilities. The rights of any utility existing before the total or partial vacation of any final plat are not affected by the vacation of a final plat.

Section 9.4. Variances.

9.4.1 Standards for a Variance. Where the subdivider determines that the subdivision presents undue hardships in execution, typically because of unforeseen or overlooked topographical concerns or economic market changes, the subdivider may apply for a variance from these Regulations. The Planning Commission may grant a variance, if the Planning Commission finds the following:

A. Granting of the variance shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the area of notice.

B Granting the variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the area of notice.

C. Granting the variance is justified because there is an undue hardship for the applicant resulting from site size, shape or existing structures thereon, or from topographic or physical conditions on the site or in the area of notice.

D. Granting the variance upholds the spirit and intent of this ordinance, with public safety and welfare secured, and substantial justice done.

E. The variance is warranted for one or more of the following reasons:

1. Strict or literal interpretation and enforcement of the specified performance standard or regulation would result in undue hardship inconsistent with the purpose of this ordinance;

2. Exceptional or extraordinary circumstances or conditions applicable to the site do not apply generally to other properties in the vicinity; or

3. Strict or literal interpretation and enforcement of the specified performance standard or regulation would deprive the subdivider of privileges enjoyed by the owners of other properties in the area of notice.

9.4.2. Conditions and limitations. A variance shall not be granted, if it would cause the County to absorb costs over and above those typically associated with subdivision approval.

In granting variances, the Planning Commission and / or the Board of County Commissioners may require such conditions as will:

A. substantially secure the objectives and standards of these Regulations; and

B. not adversely affect the health, safety, and general welfare of the public; and

C. be consistent with the general purposes and intent of these Regulations and not be injurious or detrimental to the surrounding area.

9.4.3. Planned development area. The Board of County Commissioners may grant a variance from the standards and requirements of these Regulations if it is presented with a plan and program for a new town, a complete community, or a neighborhood unit, that, in the judgment of the Board of County Commissioners provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants and other legal provisions as will assure conformity to and achievement of the plan.

9.4.4. Procedures. The following procedures and requirements shall apply to all requests for variances before the Planning Commission under these Regulations:

A. Requests for variances shall be submitted in writing at the time of request for preliminary plat review on a form provided by the Planning Director for that purpose, and upon payment of the required administrative fee.

B. Variance requests shall be reviewed by the County Planning Commission in public hearings.

C. Notice of the request for variance shall be given in the same manner as notice is provided for any public hearing required in these Regulations and shall be consistent with the requirements of Section 4.8 of these Regulations.

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D. Planning staff members shall do an on-site examination. Within a thirty (30) day period the Planning Commission shall hold a public hearing on the granting of any variance.

E. If the Planning Director or Planning Commission determines that state agency review is necessary, the Planning Commission may delay the public hearing until the variance request is forwarded to a state agency possessing expertise on the subject matter of the requested variance. The reviewing state agency shall have thirty (30) days from the date it receives notice of the variance request to review the variance and make its recommendations to the Planning Commission. If the Planning Commission has not received the state agency's recommendations within thirty (30) days of its submission to the agency, the Planning Commission shall proceed in accordance with its own best judgment concerning the subject matter of the variance requested.

F. The Planning Commission shall prepare a written decision on the request for variance(s), which shall include findings of fact, and shall file same in the Office of the County Clerk within thirty (30) days of the hearing on variance(s).

G. Variances may be granted for time periods and under such conditions as are consistent with reasons for granting the variance.

Section 9.5. Exemptions.

9.5.1. Approval required. It is unlawful for any person to divide 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, unless such person either obtains approval for a subdivision as provided in these Regulations or files and obtains approval for a Claim of Exemption as provided in this Article. The person claiming exemption shall complete a Claim of Exemption form, which form is attached as Appendix I to these Regulations.

9.5.2. Verification of exemption.

A. Any person claiming an exemption under the provisions of these Regulations shall, prior to making the land division for which the claim of exemption is made, file with the Planning Director a written claim of exemption on the prescribed form, which is Appendix I to these Regulations.

B. The Planning Director or his designee shall review the claim of exemption and supporting documents and shall mail written notice of whether the

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exemption has been approved or denied to the person claiming the exemption within thirty (30) days after receipt of the completed claim of exemption; provided, however, that the thirty (30) day period shall not begin to run until the person claiming the exemption has delivered a completed Claim of Exemption and all supporting documents, and the claim and other submissions are deemed complete by the Planning Director.

C. If the claim of exemption is approved, or if the County Planning Director or his designee fails to mail written notice to the claimant within thirty (30) days after the receipt of the completed claim of exemption and all supporting documents, the person claiming the exemption may divide the land in the manner proposed in the claim of exemption. In that event, the claimed exemption shall be deemed approved.

D. If the claim of exemption is denied, the person claiming the exemption may appeal the denial to the Planning Commission pursuant to Article 11 of these Regulations or may submit an application for a subdivision as provided in these Regulations.

Section 9.6. Merger.

A. Contiguous parcels that are owned by a single owner shall not be required by the Board of County Commissioners to be merged into one parcel if:

1. each of the contiguous parcels:
   (a) is shown on the official plat map of the county; or
   (b) was created by a deed or survey recorded in the Office of the County Clerk; or

2. the chain of title to the contiguous parcels clearly demonstrates that the parcels have been considered separate prior to transfer into common ownership; and

3. the owner of the contiguous parcels has taken no action to consolidate the parcels.

B. Nothing in this section limits the Board of County Commissioners, pursuant to notice and public hearing, from requiring consolidation of contiguous parcels in common ownership for the purpose of enforcing minimum zoning or subdivision standards on the parcels. Notice of such public hearing shall be by written notice to the owner(s) of the land that is proposed to be merged, via certified mail, return receipt requested, as well as by publication twice in a newspaper of general circulation in Taos

County, the first notice being published at least twenty-one (21) days before the hearing date.

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ARTICLE 10. SCHEDULE OF FEES

Section 10.1. Administrative Fee

A subdivider submitting an application for plat approval shall pay review fees to defray costs involved in reviewing the data submitted and to help defray costs associated with notification requirements.

Preliminary plat	$1,000.00 plus $50.00 / lot
Final plat	$500.00
Summary review plat	$500.00 plus $50.00/ lot
Variance	$300.00
Appeal from Administrative Decision	$150.00
Appeal from decision of Planning Commission	$350.00
Claim of Exemption	$150.00
Statement of vacation	$300.00
Mailing Fees/Notification Publication/Copying Fees	In the amount accrued
Copy of Taos County Subdivision Regulations	$30.00

Fees are not refundable.

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ARTICLE 11. APPEALS

11.1. Who May Appeal. An "interested party" that is a "person aggrieved" as those terms are defined in these Regulations, may appeal.

11.2. Appeal from a Decision of the Planning Director. An appeal from an administrative decision of the Planning Director shall be taken to the Planning Commission.

Notice of Appeal from an administrative decision of the Planning Director or his designee shall be delivered to the Planning Director within fifteen (15) days after the decision is made or the permit is issued or within fifteen (15) days of the date knowledge of the decision or issuance of the permit is gained or should have been gained. Knowledge of the decision or issuance of the permit shall be presumed six (6) months after the date of the decision or issuance of the permit. This presumption is rebuttable for good cause shown. A copy of the decision, order, or permit shall be attached to the Notice of Appeal. A public hearing on the appeal shall be had within thirty (30) days after the Notice of Appeal is delivered. Requirements for notice of the appeal hearing are those set forth in Sections 4.8.1., 4.8.2., 4.8.3. and 4.8.4 of these Regulations.

11.3. Appeal from a Decision of the Planning Commission. An *appeal from a decision* of the Planning Commission shall be taken to the Board of County Commissioners. A *recommendation* by the Planning Commission to the Board of County Commissioners, such as recommendations on a preliminary plat, shall not be the subject of an appeal.

Notice of Appeal from a *decision* of the Planning Commission shall be delivered to the Planning Director within thirty (30) days of the filing of the Planning Commission's written decision in the Office of the County Clerk. The Notice of Appeal shall set forth the specific portion or portions of the decision that are being challenged. A copy of the decision or order being appealed shall be attached to the Notice of Appeal. A public hearing on the appeal shall be held within sixty (60) days after the Notice of Appeal is delivered. Requirements for notice of the appeal hearing are those set forth in Sections 4.8.1., 4.8.3., and 4.8.4. of these Regulations.

11.4. Appeal from a Decision of the Board of County Commissioners. An appeal from a decision of the Board of County Commissioners shall be taken to the Eighth Judicial Court for Taos County in accordance with the Rules of Civil Procedure for the District Courts, as well as the Rules of Appellate Procedure in the event that the district court's decision is challenged.

Notice of Appeal from a decision of the Board of County Commissioners shall be filed in the Eighth Judicial District Court Clerk's Office within thirty (30) days

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of the filing of the Board of County Commissioners written decision in the Office of the County Clerk. The Notice of Appeal shall set forth the specific portion or portions of the decision that are being challenged. A copy of the decision or order being appealed shall be attached to the Notice of Appeal.

11.5. Standard of Review. In all Article 11 appeals, a review of the record shall be conducted by the reviewing body and shall be limited to evidence in the record of the proceeding and decision being appealed. The action below shall not be set aside, unless it is found to be: (a) arbitrary, capricious, or an abuse of discretion; (b) not supported by substantial evidence; or (c) otherwise not in accordance with law.

11.6. Procedures at Appeal Hearings before the Planning Commission and Board of County Commissioners. Uniform procedures shall be observed, with discretion to amend as is deemed necessary by reviewing body, for quasi-judicial hearings before the Planning Commission and Board of County Commissioners.

Hearings shall be conducted in accordance with Robert's Rules of Order, as amended, and the following guidelines:

A. The audio- or video-taped record of the hearing below, if any, limited to call to order, reading of the rules, and the relevant application, may be reviewed by the reviewing body at the open meeting; or if such review is not accomplished in an open meeting, each member of the reviewing body shall certify in writing that he/she personally reviewed the audio- or video-taped record of the hearing below prior to the appeal hearing. Any member of the reviewing body that cannot certify in writing to having personally reviewed the tape must excuse him- or herself from participation in the appeal hearing; and if such member refuses to excuse him- or herself from participation in the hearing, the chairperson of the reviewing body shall excuse said member from participation.

B. Only parties to the appeal, their agent or attorney, and Taos County staff will be allowed to address the reviewing body. Arguments and discussion shall be addressed solely to evidence received at the proceeding below, and limited to the specific alleged errors raised in the appeal notice.

C. All speakers shall be sworn in by a Notary Public, and cross-examination by the parties, staff, or reviewing body will be allowed. Cross-examination shall not be allowed by one not a party to the appeal.

D. The appellant(s) shall speak first. The appellant(s) shall have a reasonable amount of time, as determined by the reviewing body's

chairperson, in which to present appellant's(s') position, limited to issues stated in the Notice of Appeal.

E. The appellee(s) shall have a reasonable amount of time, as determined by the reviewing body's chairperson, in which to present the appellee's(s') response, limited to issues stated in the Notice of Appeal.

F. Planning staff shall make its presentation.

G. Appellant shall be allotted five (5) minutes to reply.

H. Time allotted to speakers shall be monitored by a County staff person.

I. The chairperson shall have the right to prevent repetitious and repetitive statements by asking any speaker who is being repetitious to end his/her remarks and, if appropriate, to leave the podium or floor.

J. The chairperson shall have the right to take any and all appropriate actions to insure that appeal hearings are orderly and equitably conducted so that all persons having a right to speak shall have the opportunity to do so. Only the speaker having the floor shall be allowed to speak. Members of the public attending the hearing shall not speak, comment, or disrupt, when another has been given the floor by the chairperson.

K. The chairperson shall enforce the rules, and may, at his option, appoint a Sergeant at Arms to assist in enforcing these rules.

L. The Planning Commission or Board of County Commissioners, in its discretion, may deliberate in executive session; and final action – affirm or reverse and remand with instructions – shall occur in open meeting.

M. A written decision by the reviewing body shall be filed in the Office of the County Clerk within thirty (30) days of the hearing.

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ARTICLE 12. ENFORCEMENT, PENALTIES, AND REMEDIES

Section 12.1. Purpose and Authority

Violations of the provisions of these Regulations shall be prosecuted in the manner provided by law to protect the health, safety, and welfare of the public according to the County's authority under the New Mexico Subdivision Act, §§ 47-6-1 et seq. NMSA 1978. The remedies provided in these Regulations shall be cumulative and not exclusive.

Section 12.2. Investigation of Alleged Violations

All written, signed complaints alleging one or more violations of the provisions of the New Mexico Subdivision Act or these Regulations shall be referred to the County Attorney for investigation with a copy to the District Attorney. The County Attorney shall investigate the complaint and take such action as is warranted, or make a written recommendation to the Board of County Commissioners of what action is warranted. The County Attorney shall inform the complainant in writing of what actions have been taken or what action is recommended in response to the complaint. The District Attorney may independently review the complaint for possible action by the State of New Mexico.

Section 12.3. Penalties and Remedies

Violations of the provisions of these Regulations shall be subject to the following penalties, remedies and enforcement procedures:

12.3.1. Utility Connections. Any water, sewer, electric, or gas utility that connects service to individual lots 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 levied a civil penalty of up to five hundred dollars ($500) by the Board of County Commissioners. The Board of County Commissioners may also require that any utility connected in violation of this section and of §47-6-27.2 NMSA 1978, be disconnected.

12.3.2. Suspension of Right of Sale. The Board of County Commissioners may suspend or revoke approval of a plat as to unsold, unleased or otherwise conveyed portions of a subdivider's plat, if the subdivider does not meet the schedule of compliance approved by the Board of County Commissioners.

12.3.3. Injunctive Relief, Mandamus. The Board of County Commissioners, the District Attorney, or the Attorney General may apply to the District Court for any one or more of the following remedies in connection with violations of the New Mexico Subdivision Act and these Regulations:

A. Injunctive relief to prohibit a subdivider from selling, leasing, or otherwise conveying any interest in subdivided land until the subdivider complies with the terms of the New Mexico Subdivision Act and these Regulations;

B. Injunctive relief to compel compliance by any person with the provisions of the New Mexico Subdivision Act and these Regulations;

C. Rescission and restitution for persons who have purchased, leased, or otherwise acquired an interest in subdivided land that was divided, sold, leased or otherwise conveyed in material violation of the New Mexico Subdivision Act or these Regulations; or

D. A civil penalty of up to five thousand dollars ($5,000) for each parcel created in knowing, intentional or willful violation of the New Mexico Subdivision Act or these Regulations.

12.3.4. Bond Not Required. The Board of County Commissioners, the District Attorney and the Attorney General shall not be required to post bond when seeking a temporary or permanent injunction or mandamus according to the provisions of the New Mexico Subdivision Act.

12.3.5. Criminal Penalties.

A. § 47-6-27, NMSA 1978, provides that:

1. any person who knowingly, intentionally, or willfully commits a material violation of the New Mexico Subdivision Act is guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars ($10,000) per violation, or by imprisonment for not more than one year, or both; and

2. any person who is convicted of a second or subsequent knowing, intentional, or willful violation of the New Mexico Subdivision Act is guilty of a fourth degree felony, punishable by a fine of not more than twenty-five thousand dollars ($25,000) per violation or by imprisonment for not more than eighteen (18) months, or both.

B. Additionally, any violation of the provisions of these Regulations is punishable by a fine not to exceed three hundred dollars ($300) or imprisonment for not more than ninety (90) days, or both, in accordance with §4-37-3, NMSA 1978.

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ARTICLE 13. AMENDMENTS.

These Regulations may be amended from time to time as conditions warrant. Amendments shall be made by ordinance adopted by the Board of County Commissioners in accordance with §4-37-1, et seq., NMSA 1978 compilation, as amended.

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ARTICLE 14. 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 Taos 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.

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ARTICLE 15. REPEAL AND EFFECTIVE DATE

These Regulations repeal Taos County Subdivision Regulations in Ordinance 1998-4 and amendments thereto and said repeal shall be effective upon the effective date of these Regulations. These Regulations shall become effective thirty (30) days after they have been filed with the Taos County Clerk and the State Records Administrator.

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ARTICE 16. APPLICABLE CODES AND APPENDICES

Section 16.1. Adoption of Codes

The most current enactments of following codes are hereby adopted as codes to these Regulations;

National Electrical Code;
State of New Mexico Electrical Code;
Uniform Mechanical Code;
Uniform Plumbing Code;
Uniform Swimming Pool Code;
Uniform Solar Energy Code;
Uniform Fire Code;
International Residential Code;
International Building Code;
International Wildland-Urban Interface Code.

Section 16.2. Appendices

Appendix A Water Supply

Appendix B Liquid and Solid Waste Disposal

Appendix C Roads and Utilities

Appendix D Fire Protection

Appendix E Terrain Management

Appendix F Protection of Cultural Properties, Archeological Sites and Unmarked Human Burials

Appendix G Disclosure Statement

Appendix H Agreement to Assure Completion of Infrastructure

Exhibit "A" Engineer's stamped estimate to be provided by applicant

Exhibit "B" Standby Letter of Credit

Exhibit "C" Termination of Agreement to Assure Completion of Infrastructure

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Appendix I Claim of Exemption

Attachment "1" Common Promotional Plans

Attachment "2" Affidavit (Limited to Claim of Family Exemption)

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APPENDIX A

WATER SUPPLY

SECTION 1: WATER AVAILABILITY ASSESSMENT

A. Requirements of the water availability assessment are dependent on the source of water supply.

1. For subdivisions where the source of water will be domestic wells, permitted pursuant to Section 72-12-1, the subdivider shall demonstrate a fifty (50) -year supply and shall submit a geohydrologic report in accordance with the standards set forth in section 1.B. of this appendix.

2. For subdivisions where the source of water will be a community water system dependent on a new groundwater diversion, permitted pursuant to Section 72-12-3 or 72-12-7, NMSA 1978, the subdivider shall demonstrate a fifty (50) -year supply, and shall submit a geohydrologic report in accordance with the standards set forth in section 1.B. of this appendix.

3. For subdivisions where the source of supply will be a community water system dependent on a new surface water diversion, permitted pursuant to Section 72-5-1, 72-5-23 or 72-5-24, NMSA 1978, the subdivider shall submit a hydrologic report in accordance with the standards set forth in section 1.C. of this appendix.

4. For subdivisions where the source of supply will be an existing community or municipal water supply system permitted pursuant to Sections 72-5-1, 72-5-23, 72-5-24, 72-12-1 or 72-12-3, and 72-12-7, the subdivider shall submit a water utility plan in accordance with the standards set forth in section 2 of this appendix.

5. In areas where the Office of the State Engineer (OSE) determines groundwater will be supplied from geologic formations that yield minimal amounts of water, fail to recover from pump tests, experience seasonal depth to water, or experience excessive draw downs, the County may reject the application, or upon the advise of OSE, require larger lot sizes, require that water availability be proven every well to be used, or require community water systems.

6. In areas where the groundwater would be supplied from geologic formations where wells have been determined to produce three (3)

gallons per minute or less or where available information suggests the likelihood of low yielding wells, the County may reject the application, require larger lot sizes, require that water availability be proven for up to every well to be used, or require community water systems.

7. In areas where the seasonal high water table is four (4) feet or less, the County may reject the application or require larger lot sizes.

B. Geohydrologic Report: If a geohydrologic report is required under these Regulations, it shall be prepared in accordance with the specifications listed below:

1. Geohydrologic reports shall demonstrate that the maximum annual water requirement of the subdivision is physically available from the aquifer to be utilized and can be practically recovered to sustain the development for a continuous period of fifty (50) years. These analyses shall take into account the production of existing wells and shall demonstrate that the subdivision wells, as proposed or as designed, will be capable of producing the full annual demand for at least fifty (50) years.

2. Aquifer pump tests shall be conducted on wells within the boundaries of the proposed subdivision to characterize the aquifer performance. The duration of these pump tests shall be sufficient to provide reliable drawdown and recovery data for the determination of transmissivity, and to identify any boundary conditions that affect long-term water availability. Water levels in any observation wells that are monitored during the pump test should be recorded. The analysis of the pump test should include descriptions of all assumptions, analytical procedures, and references used. The requirement for the pump test data may be waived where there is substantial evidence documented in geo-hydrologic investigations conducted in the study area that demonstrate that wells have consistently produced substantial volumes of water for many years without increasing the depth to water or decreasing the yield (gallons per minute) of wells.

3. The assessment shall include a calculated fifty (50) -year schedule of effects of the proposed subdivision's production well(s) on existing demands and from the increase of groundwater withdrawals for the subdivision. Analyses shall be done to assess whether future water level declines will be within the limits of allowable draw down in the subdivision production wells. Predicted draw downs shall be calculated in a conservative manner (that

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estimates maximum draw down). These calculations shall include estimates of future water uses.

4. The subdivider shall calculate the lowest practical pumping water level in the proposed subdivision. Pumping wells by any of the following methods, as appropriate, is acceptable, *provided* there shall be no presumption made as to additional available water below the bottom of the proposed production well, and *further provided* that the total available draw down shall be reduced by a factor of twenty percent (20%) as a margin of safety to account for seasonal fluctuations, drought allowance, reduction of well efficiency over time, and peak production requirements:

   (a) By using the results of acceptable on-site aquifer pump tests. The lowest allowable pumping level may be the lowest water level reached during the test.

   (b) By setting the level at the top of the uppermost screened interval.

   (c) In wells completed in fractured aquifers, the lowest practical pumping water level must be above the top of the fracture zone.

   (d) In wells completed in alluvial aquifers, the lowest practical pumping water level may be defined by a maximum allowable draw down equal to 70% of the initial water column.

5. The geohydrologic report should present all hydrologic information pertinent to the study area including that available from past hydrologic studies. All sources of information used in the report should be identified, including basic data collected by the consultant who prepared the report. The report shall contain maps and cross-sections showing geology, depth to the water-bearing formation, water–level contours, and estimated thickness of saturation in the aquifer. Tables and maps of historical draw downs should be included. Basic data for the immediate area of the subdivision must be adequate for the State Engineer to make a reliable assessment of water availability. The report on the investigation should be in the format of a technical narrative. Well logs, spreadsheets, tables, graphs, maps and cross-sections shall be included.

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6. Where NMSA 1978, Section 72-12-1 wells are proposed, the geohydrologic report shall also include a calculated fifty (50) -year schedule of off-site effects (draw downs) and surface water depletions resulting from the increase of groundwater withdrawals from the subdivision. The report shall identify by ownership and location all existing wells within one thousand (1,000) feet of the subdivision that may either go dry or experience a decline in water level elevation as a consequence of the proposed subdivision's groundwater withdrawals for existing developments or proposed developments that have been approved for construction in the near future. The report shall also identify by name and location all springs, streams, acequias (ditches), canals, and drains, the flows of which may be diminished by the proposed surface or groundwater diversions. All natural or man-made ponds, lakes, reservoirs, or wetlands that will be impacted shall also be identified.

C. Hydrologic Report. If a hydrologic report is required under these Regulations, the hydrologic report shall demonstrate that surface water sufficient to meet the maximum annual water requirement of the subdivision is physically available. These analyses shall include the following:

1. Narrative and analytical demonstration that the surface water will suffice for the proposed use, given short-term and long-term fluctuations (base-flow analysis) due to climatic cycles or other factors (such as induced recharge due to groundwater diversion), and analyses of relevant historical runoff records, and projected water supply available for the subdivision requirements. Applicable legal or water rights constraints on water availability shall be considered.

2. If the analysis of the historical runoff record indicates possible shortages in the projected water supply available for the subdivision requirements, the subdivider shall provide for either storage or a supplemental groundwater supply sufficient to meet the shortage.

3. If a supplemental groundwater supply is proposed, the subdivider shall prepare a geohydrologic assessment in accordance with Section 1.B. of this appendix.

4. The subdivider shall provide a copy of a water right permit issued by the Office of the State Engineer for sufficient surface water to meet the maximum annual water requirement of the proposed subdivision, including authorization for this purpose, prior to the

approval of the proposed subdivision by the Board of County Commissioners.

5. Any other information necessary to demonstrate the capability to meet the water requirements of the proposed subdivision.

SECTION 2: COMMUNITY WATER SYSTEM REQUIREMENTS.

1. A community water system shall be required for all Type 1 and Type 2 subdivisions in which the smallest parcel is less than five (5) acres.

2. A community water system shall be required, if groundwater would be supplied from geologic formations where wells have been determined to produce three (3) gallons per minute or less or where available information suggests the likelihood of low yielding wells. In lieu of a community water system, individual or shared wells may be drilled by the subdivider, provided that it can be demonstrated that production can be sustained at rates greater than three (3) gallons per minute and is adequate to meet the maximum annual water requirements of all lots for fifty (50) years.

Required Improvements for Community Water Systems and Sewer Systems By Lot Size (Acres)

Number of Lots	Less than .75 acre	.75 acre to 3 acres	3 to 5 acres	More than 5 acres
2 – 5	----	----	----	----
6 - 24	----	----	----	----
25-99	A	A	----	----
100 +	A & B	A & B	A	----

A = Community Water Systems
B = Community Liquid Waste Disposal System

3. Existing Community Water Systems: For existing community water systems, the subdivider shall provide a copy of a water right permit issued by the Office of the State Engineer for sufficient surface or groundwater to meet the maximum annual water requirement of the proposed subdivision. Where the source of water will be an existing community water system, a Letter of Intent from the water utility shall be provided.

   (a) The subdivider must identify the management entity type for the community water system, e.g. non-profit, water cooperative,

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investor-owned, or private for-profit corporation, or whether subdivider will continue as the management entity.

(b) The subdivider shall submit a plat of the proposed subdivision prepared by a licensed surveyor, and preliminary plans for the water production, storage, and distribution facilities prepared by or under the supervision of a New Mexico licensed engineer. The site plans shall show the topography, lot boundaries, location of acequias, streets, wells and water storage and distribution system, including hydrants. The size or capacity of the water system components should also be indicated on the site plans. Preliminary well plans shall include casing diameter, total depth, screened interval, and proposed pump setting. All distribution mains shall be a minimum of six (6) inches in diameter.

4. Community Water Systems: For community water systems in which existing utility companies are proposed as the source of water supply, the subdivider shall submit a water supply plan that meets the following requirements:

(a) Name of the public water system proposed as the source of supply.

(b) Letter of Intent from the utility that it is ready, willing, and able to provide the maximum annual water requirements for the subdivision for at least fifty (50) years. The letter must also state any requirement for the subdivider to provide water rights.

(c) Documentation showing the quantity of water presently produced annually, quantity of water supply commitments to date, and proof of sufficient water rights to meet both existing commitments and the requirements of the proposed subdivision for a period no less than fifty (50) years.

(d) For New Mexico Public Regulatory Commission (PRC) certificated utilities, a copy of the most recent annual report submitted to the PRC.

(e) Plans for the existing water system into which the proposed system will tie. The plans shall show diversion point locations, and water storage and distribution system. The size or capacity of the water system components should also be indicated on the plans.

(f) Any other information necessary to demonstrate the capability to meet the water requirements of the proposed subdivision.

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SECTION 3. OPINIONS AS TO STREAM CORRIDOR OR CRITICAL MANAGEMENT AREA DESIGNATION.

Where evidence is presented of an area at risk of being a stream corridor or critical management area as defined herein, but which is not yet so designated by the New Mexico State Engineer, the Board of County Commissioners may solicit the opinions of the New Mexico State Engineer, the New Mexico Bureau of Geology and Mineral Resources, other experts, and Taos County residents, as well as consider any existing Taos County Regional Water Plan, to determine whether such a designation, if proposed by the New Mexico State Engineer, should be supported or disputed by the Board of County Commissioners.

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APPENDIX B

Liquid and Solid Waste Disposal

PART I: LIQUID WASTE

Section 1. Liquid Waste Disposal Documentation and Submittals

A. Liquid Waste Disposal Documentation Package: The subdivider shall submit a liquid waste disposal documentation package that shall include the following:

1. the subdivider's name and mailing address;
2. the date the package was completed;
3. the subdivider's proposal for meeting the liquid waste disposal requirements of these Regulations;
4. the subdivider's disclosure statement on liquid waste disposal;
5. the information required in this appendix, as applicable to the subdivider's liquid waste disposal; and
6. other relevant information, as may be necessary for determination of compliance with the liquid waste disposal requirements of these Regulations.

Section 2. Community Liquid Waste System

A community waste system is required in all Type 1 and Type 2 subdivisions with lots or lot densities less than 3 acres per lot. Documentation of approval for the discharge from a community liquid waste disposal system from the New Mexico Environment Department shall be required. Prior to recording the final plat or a system construction permit being issued, the cost of the system must be part of an Agreement to Assure Completion of Infrastructure with Taos County. See Appendix H.

A. New Community Liquid Waste System: 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 engineering report and preliminary plans for the proposed liquid waste disposal system. Final plans and specifications for the construction of the system, prepared by a professional engineer, must be submitted and approved by the Planning Department and the New Mexico Environment

Department, prior to recording a subdivision plat or granting a permit to construct the system.

2. Maps showing the location of all water supply sources and the flood plain of all watercourses and surface bodies of water, including acequias, within two hundred (200) feet of the proposed liquid waste treatment system and liquid waste disposal site.

3. A legal description of the location of all construction easements and rights-of-way necessary for the installation of the community liquid waste system.

4. If it exceeds two thousand (2,000) gallons per day (GPD), 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.

5. The construction and operation of any liquid waste disposal system must be approved by the Planning Department and the New Mexico Environmental Department, and shown in the plat documents and plans;

6. Written confirmation from the New Mexico Environment Department that the operator of the system has met all the requirements of the New Mexico Utility Operators Certification Board;

7. Copies of documents establishing a legal entity with authority to operate and maintain the system;

8. 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;

9. A report that indicates alternatives to the system that were considered, if any, and the reasons for not selecting the alternatives.

B. Existing Community Liquid Waste System: If the subdivider proposes a liquid waste disposal system by connection to the extension of an existing community liquid waste disposal system, the following information shall be submitted as part of the liquid waste disposal documentation package. Taos County recommends connecting to an existing community waste disposal system, whenever possible.

1. The applicant must submit a Letter of Intent with the operator or owner of the sewage system to be used allowing the applicant to dispose of liquid waste from the development into the sewage system. This must be submitted with the preliminary plat application.

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2. Development or construction on lots within four hundred (400) feet of a public liquid waste disposal system should be connected to that public system, providing easements are available. The design of the connection shall be approved by the public waste disposal system authority and the New Mexico Environment Department.

3. The applicant shall submit a professional engineer's report and preliminary plans of the proposed extension to the existing liquid waste disposal system with the preliminary plat application.

Section 3. Individual Liquid Waste System.

If the subdivider proposes individual liquid waste disposal systems, the following information shall be submitted as part of the liquid waste disposal system package:

1. For any lot with a capacity and expected waste discharge of less than two thousand (2,000) gallons per day, a Liquid Waste Disposal Permit issued by the New Mexico Environment Department must be submitted by the applicant prior to issuance of preliminary plat approval.

2. New Mexico Environment Department lot size requirements shall be met.

3. Maps showing the location of all water supply sources and the flood plain of all watercourses and surface bodies of water, including acequias, within the proposed subdivision and within two hundred (200) feet of the proposed subdivision boundaries.

4. If septic location is known, septic tanks shall be noted with adequate access to accommodate vehicles transporting septage.

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Setback Distances for Individual Liquid Waste Systems		
Object	Required Minimum Setback Distance (feet)	
	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 (A)	100 (A)

Notes:

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

PART II: SOLID WASTE

Section 1. Solid Waste Disposal Documentation and Submittals

A. Solid Waste Disposal Documentation Package: The subdivider shall submit a solid waste disposal documentation package that shall include the following:

1. the subdivider's name and address;
2. the date the package was completed;
3. the subdivider's proposal for meeting the solid waste disposal requirements of these Regulations;
4. be accompanied by the information required in Subsection B of this section, as applicable to the subdivider's solid waste collection and disposal proposal; and
5. be accompanied by other relevant information as may be necessary for determination of compliance with the solid waste disposal requirements of these Regulations.

B. Existing Solid Waste Collection Service: 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; and

2. The travel distance from the center of the subdivision to the disposal site.

Section 2. Solid Waste Disposal Requirements.

The subdivider shall provide a plan for disposal of solid waste at an approved solid waste disposal facility.

Section 3. Recycling.

The subdivider shall encourage recycling within the subdivision.

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APPENDIX C

Roads & Utilities

PART I: ROADS

Road Design Standards: All roads requiring improvements under these Regulations shall be improved to the following standards:

A. The arrangement, character, extent, width, grade and location of all roads within the subdivision 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 layout within the subdivision shall be coordinated with the street system of the surrounding areas. All streets must provide plans for the continuation and appropriate projections of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding acreage 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 provisions for the concurrent dedication of the remaining half (1/2) shall be provided by the proposed development.

D. Where a proposed residential subdivision contains lots abutting or adjacent to a major highway, it shall be planned to prohibit having driveways entering or exiting on the highway.

E. Subdivisions shall be laid out to have a minimum number of street intersections with highways. Such intersections shall be designed according to Department of Transportation Traffic Design Standards. The "sight distance" at any intersection must provide for adequate "stopping distance." Where the subdivision contains, or is adjacent to a state or federal highway, the subdivision must satisfy the New Mexico State Highway Department guidelines for land subdivision.

F. Roads shall be located, aligned and designed to:

1. Preserve natural features, vegetation and topography and protect the natural environment;

2. Protect public health and safety;

3. Require the appropriate amount of road surface necessary to adequately serve the type and intensity of the proposed uses within the subdivision, calculating future traffic demand according to the vehicle type and anticipated volume, and providing adequate access for public service vehicles;

4. Provide, to the extent feasible, for the separation of motor vehicle, bicycle, pedestrian and equestrian traffic;

5. Install proper signs i.e., Stop, Yield, Pedestrian Crossing, Speed Limits, Bus Stops, Street Signs or any other needed signs;

6. Provide for proper re-vegetation for cut and fill slopes; and

7. Provide proper drainage for protection against erosion of roads and road surface.

G. Culvert size shall be based on at least a fifty (50) -year storm. Road overflow sections will only be permitted when they are in accordance with good engineering practices.

H. Streets and alleys shall be arranged to minimize hardship to the owners of the adjoining property, and off-set streets shall be avoided.

I. No street grade shall be less than 0.5%. Grades approaching intersections shall not exceed five percent (5%),for a distance of not less than fifty (50') feet each way from each intersection.

J. Curve Radii and Super Elevation: Vertical and horizontal curves and the super elevation of the horizontal curves shall conform to the requirements set forth in the American Association of State Highway Officials publication "A Policy on Geometric Design of Rural Highways."

K. Intersections: No intersection angle shall be less than 70°. No two opposing street intersections shall be less than 125' between centerlines.

L. Cul-de-sacs (dead end streets): permanent cul-de-sacs shall be no longer than one-thousand feet (1,000') and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least fifty feet (50'), and a street property line diameter of at least fifty feet (50').

M. All streets and roads shall be named.

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SUBDIVISION ROAD SPECIFICATIONS

See note 1

Type of Subdivision	Right-of-Way Width See note 3	Driving Surface Width	Maxim-um Grade	Design Speed MPH	Compacted Subgrade (inches) Pit Run	Compacted Basecourse (inches) Crushed Aggregate	Surface Course	Roadfill Construction Material See note 2	Type of Road-way
TYPE ONE 500 or more parcels less than 10 acres	110 ft.	24 ft.	12%	35 MPH	12 Inches	6 inches	2 inches Hot Mix	SEDILLO or other compar-able material	A
TYPE TWO 25 to 499 parcels less than 10 acres	70 ft	24 ft.	12%	25 MPH	12 inches	6 inches	2 inches Hot Mix	SEDILLO or other compar-able materical	B
TYPE THREE 6 to 24 parcels less than10 acres	50 ft.	22 ft.	12%	25 MPH	12 inches	6 inches	N/A	SEDILLO or other compar-able material	C
TYPE FOUR 25 or more parcels 10 acres or more	50 ft	22 ft.	12%	25 MPH	12 inches	6 inches	N/A	SEDILLO or other compar-able material	C
TYPE FIVE 2 to 24 parcels 10 acres or more	50 ft	22 ft.	12%	25 MPH	12 inches	6 inches	N/A	SEDILLO or other compar-able materical	C
SUMMARY REVIEW 5 parcels or less **See note 4**	40 ft.	22 ft.	12%	25 MPH	12 inches	6 inches	N/A	SEDILLO or other compar-able material	D

NOTES:

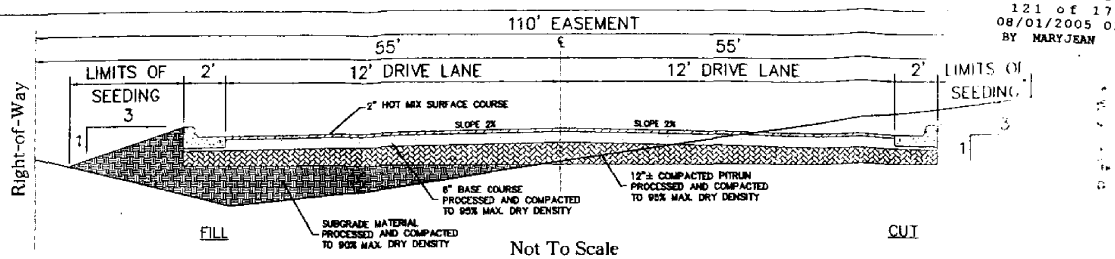
1) See also the following Cross Section of Roadway for Type 1, 2, 3, 4, 5, and Summary Review subdivisions.
2) The analysis of the soil survey shall conform to the standards of the New Mexico Highway and Transportation Department.
3) Easement for ingress/egress and utilities
4) The Planning Director may, in his/her discretion, approve an 18 foot road for 1 or 2 parcels accessed at a dead end, so long as a 40-foot easement is maintained.

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Type 1 Subdivision

ROADWAY TYPICAL SECTION
TYPE A

See Note 2 - Taos County Road Specs.

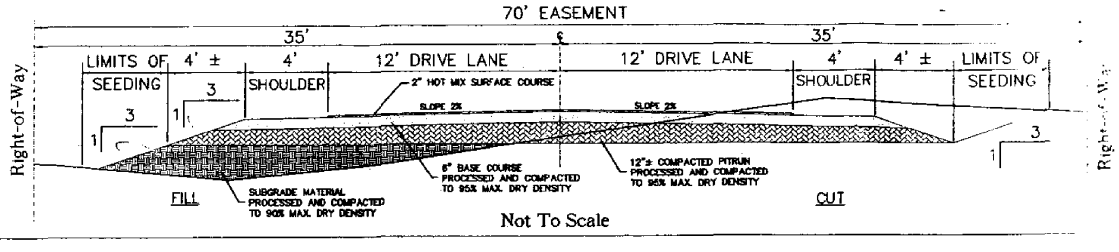


Not To Scale

Type 2 Subdivision

ROADWAY TYPICAL SECTION
TYPE B

See Note 2 - Taos County Road Specs.

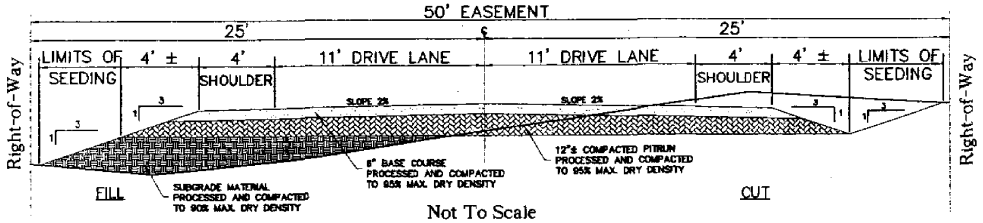


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Type 3, 4 & 5 Subdivision

ROADWAY TYPICAL SECTION
TYPE C

See Note 2 - Taos County Road Specs.

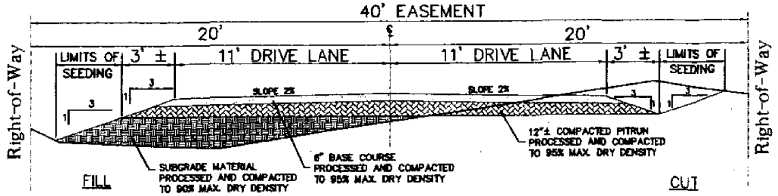


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Summary Subdivision

ROADWAY TYPICAL SECTION
TYPE D

See Note 2 - Taos County Road Specs.



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PART II: UTILITY EASEMENTS AND INSTALLATION

Utility easements shall be provided for each parcel in the subdivision and shall be designed under the following standards:

A. Utility easements shall be located such that each lot can be served by all proposed utilities. Utility easements shall be adjacent to the lot lines. Such easements shall be located according to a plan approved by the appropriate utility companies. Easements placed diagonally across tracts shall be avoided. Utility easements shall be at least twelve (12) feet wide.

B. Utility easements are encouraged to be placed parallel to access easements so that maintenance of electric, gas or water lines will not create the need to disturb the road or street. In the event utility installation or maintenance requires disturbance of a road or street, such road or street will be restored to a condition equal or better to its original condition.

C. Access and utility easements are normally combined, unless topographical, existing utility easements, or other conditions prevail, and they may be located outside of or adjacent to right-of-way reserved for roads.

D. All utilities will be buried a minimum of twenty-four (24) inches below grade.

E. No excavation off of a County Road shall begin prior to obtaining an excavation permit from the Taos County Road Department pursuant to Ordinance No. 2002-3, as amended.

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APPENDIX D
FIRE PROTECTION REGULATIONS

Requirements for Subdivisions Located in Wildland-Urban Interface Areas

1. Access: All subdivisions, as determined by the local fire department servicing the area, the U.S. Forest Service and Taos County, shall be provided with fire access roads. The access road requirements are:

   All fire apparatus access roads shall be all-weather roads with a minimum width of twenty-two feet (22') and a clear height of thirteen and one-half feet (13' 6"); shall be designed to accommodate the loads and turning radii for fire apparatus; and have a gradient, with maximum of 12%, negotiable by the specific fire apparatus normally used at that location within Taos County. Dead-end roads in excess of one hundred fifty feet (150') in length shall be provided with turnarounds of fifty feet (50') as approved by the local fire department servicing that location. An all-weather road surface shall be applied with any surface material acceptable to Taos County that would allow passage of emergency vehicles typically used to respond to that location within Taos County.

2. Driveways: All driveways in the subdivision shall meet the following requirements:

   a. Driveways shall be provided when any portion of an exterior wall of the first story of a building is located more than one hundred fifty feet (150') from a fire apparatus access road. Driveways shall provide a minimum unobstructed width of eighteen feet (18') and a minimum unobstructed height clearance of thirteen and one-half feet (13' 6"). Driveways in excess of one hundred fifty feet (150') in length shall have fifty foot (50') turnarounds. Driveways in excess of two hundred feet (200') in length and less than twenty feet (20') in width shall have turnouts or hammerhead turns in addition to fifty foot (50') turnarounds.

   b. A driveway shall not serve more than five (5) dwellings.

   c. Driveway turnarounds shall have an inside turning radii of no less than fifty feet (50') and an outside turning radii of not less than sixty feet (60'). Driveways that connect with a road or roads at more than one point may be considered as having a turnaround if all changes of direction meet the radii requirements for driveway turnarounds.

d. Driveway turnarounds shall be an all-weather surface at least twelve feet (12') wide and forty feet (40') long. Driveway turnouts shall be located as required by the local fire department servicing that area and Taos County.

3. Marking of access roads, driveways, fire protection equipment and fire hydrants are required as follows:

a. Marking of roads with approved signs or other approved notices shall be provided and maintained for access roads and driveways to identify such roads and driveways and prohibit the obstruction of both. All dead end roads shall be marked at the entrance and must have a hammerhead turn every five hundred feet (500') and a cul-de-sac or hammerhead turn near the end of the road.

b. Fire protection equipment and fire hydrants shall be clearly identified in a manner approved by the local fire department servicing that area and Taos County to prevent any obstruction.

c. All buildings shall have permanently posted addresses, which shall be placed at each driveway entrance and be visible from both directions of travel along the road. In all cases, the addresses shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located.

d. Address signs along one-way roads shall be visible from the intended direction of travel and the opposite direction.

e. Where multiple addresses are required at a single driveway, they shall be mounted on a single post, and additional signs shall be posted where driveways divide.

f. The gradient for all fire apparatus access roads and driveways shall not exceed the maximum of 12%.

4. Defensible space is intended to clear flammable vegetation within a minimum of thirty feet (30') of a home or structure, limit its density within one hundred feet (100'), without disturbing the natural setting beyond.

a. In order to qualify as a conforming defensible space, fuel modification shall be provided within a distance from buildings or structures as specified in the Defensible Space Table below. For all other purposes, the fuel modification distance shall not be less than ten feet (10') or to the property line, whichever is less.

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Distances specified in the Defensible Space Table below may be increased by the local fire department servicing the area or Taos County, because of a site-specific analysis based on local conditions and the fire protection plan.

REQUIRED DEFENSIBLE SPACE TABLE

Wildland-Urban Interface Area	Fuel Modification Distance (feet)
Moderate Hazard	30 feet
High Hazard	50 feet
Extreme Hazard	100 feet

b. Persons owning, leasing, controlling, operating or maintaining buildings or structures requiring defensible spaces are responsible for modifying or removing vegetation that is not fire resistant on the property owned, leased or controlled by said person.

c. Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than ten feet (10'). Deadwood and litter shall regularly be removed from trees.

d. Maintenance of defensible space shall include keeping non fire-resistant vegetation or growth, leaves, needles and other dead vegetative materials clear of any buildings or structures; tree crowns extending to within ten feet (10') of any buildings or structures pruned to maintain a minimum horizontal clearance of ten feet (10'); tree crowns pruned to remove limbs located less than six feet (6') above the ground surface adjacent to the trees in a manner so as to provide a clear area for fire suppression.

e. Chimneys serving fireplaces, incinerators, barbecues or decorative heating appliances in which solid or liquid fuel is used, shall be equipped with an approved spark arrester. Spark arresters shall be constructed of woven or welded wire screening of 12 USA standard gauge (0-1046 inch) having openings not exceeding one-half inch (1/2").

5. Water Supply. All subdivisions may be required to have an approved water source with an adequate water supply for the use of the fire protection service to protect buildings and structures from exterior fire sources, or to suppress structure fires within a wildland-urban interface

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area of Taos County. Adequate water supply shall be determined for purposes of initial attack and flame control.

6. Water Sources. The point at which a water source is available for use shall be located not more than one thousand feet (1,000') from the building and shall be approved by the local fire department servicing that location. The distance shall be measured along an unobstructed line of travel.

   Water sources shall comply with the following:

   a. Man-made water sources shall have the minimum usable water volume determined by adequate water supply needs. The water supply shall be equipped with an approved dry hydrant(s) with the proper hose fittings. The water level of the water source shall be maintained by rainfall, water pumped from a well, water hauled by tanker, or by seasonal high water of a stream or river. The design, construction, location, water-level maintenance, access, and access maintenance, of man-made water sources shall be approved by Taos County.

   b. Natural water sources shall have a minimum water level or flow sufficient to meet adequate water supply needs. This water level or flow shall not be approved, if rendered unusable because of freezing. This water source shall have an approved site with an approved dry hydrant(s) and approved hose fittings. Adequate water flow and rights for access to the water source shall be ensured in a form acceptable to Taos County.

   c. Connections to all dry hydrants shall be determined by the local fire department with jurisdiction.

7. Vegetation Control.

   a. The local fire department servicing the area is authorized to require vegetation control, as in the removal of brush and non fire-resistant vegetative growth, from areas within ten feet (10') of each side of fire apparatus access roads and driveways, and the removal of brush and non fire-resistant vegetative growth from areas of electrical transmission or distribution lines, poles or towers to provide a combustible-free space consisting of a clearing not less than ten feet (10') in each direction from the outer circumference of such pole or tower.

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b. Water storage and pumping facilities shall be provided with a defensible space not less than a fifty-foot (50'), semicircular radius that is clear of non fire-resistant vegetation or growth around and adjacent to such facilities.

c. Persons owning, leasing, controlling, operating or maintaining water -storage or water-pumping facilities are responsible for clearing and removing non fire-resistant vegetation and maintaining the defensible space on the property.

8. Ignition-Resistant Construction. Buildings and structures hereafter constructed, modified or relocated into or within wildland-urban interface areas shall meet certain construction requirements. All buildings and structures within high or extreme fire hazard areas shall be constructed of ignition-resistant rated materials, with particular attention paid to roofs, eaves, fascias, exterior walls, unenclosed underfloor areas, and attached, unenclosed accessory structures, such as decks, doors, windows, vents and skylights.

a. Roofs shall be constructed with Class 1 or 2 ignition-resistant materials approved by the local fire department servicing the area and Taos County.

b. Eaves and soffits shall be protected on the exposed underside by materials approved for a minimum of 1-hour fire-resistance-rated construction. Fascias are required and must be protected on the backside by materials approved for a minimum of 1-hour fire-resistance-rated construction or 2-inch (51mm) nominal dimension lumber.

c. Gutters and downspouts shall be constructed of noncombustible material.

d. Buildings or structures shall have all underfloor areas enclosed to the ground with exterior walls built, at minimum, of 1-hour fire-resistance-rated materials.

e. Unenclosed accessory structures attached to buildings with habitable spaces and projections such as decks, shall be a minimum of 1-hour fire-resistance-rated construction, heavy timber construction, or approved noncombustible materials.

f. Exterior windows, window walls, and glazed doors, windows within exterior doors and skylights, shall be multi-layered glazed panels,

glass block, or have a fire protection rating of not less than twenty (20) minutes.

g. Exterior doors shall be approved, noncombustible construction, solid core wood not less and 1 ¾ inches thick (45mm), or meet a 1-hour protection standard.

h. Attic ventilation openings, foundation or underfloor vents, or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches each. Such vents shall be covered with noncombustible corrosion-resistant mesh with openings not to exceed ¼ inch.

Attic ventilation openings shall not be located in soffits, in eave overhangs, between rafters at eaves, or in other overhang areas. Gable end and dormer vents shall be located at least ten feet (10') from property lines. Underfloor ventilation openings shall be located as close to grade as practicable.

i. Detached accessory structures located less than fifty feet (50') from a building containing habitable space shall have exterior walls constructed with materials approved for a minimum of 1-hour fire-resistance-rated construction, heavy timber, log wall construction or constructed with approved noncombustible materials on the exterior side.

When the detached structure is located and constructed so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have all underfloor areas enclosed to within 6 inches of the ground, with exterior wall construction of approved minimum 1-hour fire-resistance-rated materials.

9. If manufactured homes are planned in the subdivision, the distance from any part of the structures to the property line shall be no less than twenty-five feet (25'). Minimum distance from any manufactured home to any other structure shall be no less than twenty feet (20'). Any manufactured home must be skirted with fire-resistant materials with at least a one-hour fire rating.

10. Fire Protection Plan. All subdivisions in wildland-urban interface areas shall submit a Fire Protection Plan to the County and the local fire department servicing the area thirty (30) days before the public hearing on preliminary plat approval.

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a. The plan shall be based upon a site-specific, wildfire risk assessment by local fire department authorities and includes considerations of location, topography, flammable vegetation, climatic conditions, and fire history. The plan shall address defensible space, vegetation management, water supply, access, building ignition, fire-resistance factors, and fire protection systems and equipment.

b. The cost of the fire protection plan preparation and review shall be the responsibility of the applicant.

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APPENDIX E

Regulations for Terrain Management

Subdividers who are subject to the requirements of this Appendix shall submit a Terrain Management Plan as described in Section 1. The plan shall be developed under the performance standards set forth in Section 2.

Section 1: Terrain Management Plan: The subdivider shall submit a terrain management plan that includes the following:

A. Vicinity Map- A map drawn to a scale of not more than 2,000 feet to one inch showing the relationship of the site to its general surroundings, and the location of all existing drainage channels, water courses and water bodies within three miles of the site. This map shall display the topographic intervals (A suitable example would be from a USGS Topographic Map, 1:24,000).

B. Natural Features Map- A map of the development (at the same scale as the preliminary plat map) showing directly or by overlay:

1. The boundaries of the development.

2. The existing contours with intervals of not less than 2 feet where the slope is less than 8% and not more than 5 feet where the slope is 8% or greater.

3. All areas with natural slopes of 20% or greater clearly recorded by scale, line or color.

4. The location of all drainage channels, watercourses, water bodies, floodways, flood fringes, and flood plains.

5. The location of all major rock outcropping, faults and geologic resources.

6. The location of the major vegetation types showing the plant species included and the cover density. This may be accomplished by use of a line map or aerial photo of reasonable clarity taken within the past 12 months, if available, and be of a satisfactory scale with an appropriate legend.

C. A soil survey of the site including:

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1. An overlay of the natural features map showing the location of each soil type. Soil surveys will be in keeping with national standards set forth by the USDA Natural Resources Conservation Service.

2. A description of the soil types. Detailed soil profiles may be required, if deemed necessary by the Taos Soil and Water Conservation District.

3. Interpretation of limitations demonstrated by a detailed soil survey indicating each soil type and its relation to the intended land uses common to the development.

D. Grading Plan- A series of maps, cross sections, and design profiles showing the location of the planned development features and their impact upon the natural land form.

1. An overlay of the Natural Features Map showing the location of all proposed parcels, roads, bridges, water- and erosion- control structures, and the utility easements in relation to the existing contours.

2. An overlay showing the finished contours of the development after all proposals have been implemented, using contour intervals equal to or less than those on the existing contour map.

3. The location of all cuts and fills, including the grades, lengths, and depths thereof, displayed using the necessary cross-section and profiles to adequately describe the planned action.

4. The location of all areas where the natural elevation of the land will be changed by more than three feet.

5. The location of all areas where the grading of land will disturb more than 1000 contiguous square feet.

6. Profiles showing the existing ground surface and proposed street grades and typical cross-sections of the proposed grading.

7. Description of methods of stabilization in areas of cut and fill, embankment compaction, and re-vegetation on steep slopes.

E. Landscaping Plan- A series of maps or overlays and narratives to identify those areas which will be re-vegetated following disturbance or to enhance the visual aesthetics of the site and the methods to be used:

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1. Location and type of materials to be used in re-vegetation and slope stabilization.

2. Location of all areas where vegetation will be preserved and a description of the methods that will be used for protection.

3. Duration of exposure of the disturbed sites prior to reclamation of the site, with methods to be used to minimize erosion of the disturbed sites prior to reclamation.

4. Description of the vegetative characteristics to be present after re-vegetation.

5. The plan for site preparation, fertilization, seeding rates, dates and amounts by species, mulching type and amount for both grass, shrubs and trees. If watering is a planned part of the re-vegetation procedure, a description of the planned irrigation system and amounts of water needed will be included.

F. Erosion and Drainage Plan: This shall include the necessary charts, drawings, location maps, and calculations to support the plan:

1. A watershed map showing all the upper watershed area draining into or through the site, showing the watercourses and topographic conditions and indicating the soil and vegetative types and their locations within the watershed.

2. Storm drainage computations for a 100-year frequency storm both reaching and leaving the site in the pre-development conditions as per Natural Resource Conservation Service (NRCS) standards.

3. Storm drainage calculations for estimated runoff after full development of the site, and calculations for the estimated runoff before and after any mitigation of the increased flows.

4. Quantities of water carried by the major watercourses and the proposed treatment of these watercourses. Calculations shall be provided for both pre- and post-development.

5. The location, type, and size of all proposed drainage and erosion control structures with adequate detail of the drawings or designs.

6. The locations and size of all drainage easements for all flood plains, floodways, flood fringes, and other natural water courses,

along with adequate supporting documentation. Drainage easements are required for all watercourses with 100-year storm flows that exceed 20 cubic feet-per-second flow rates.

7. An overlay indicating the depth to ground water in all areas where the seasonal high water table is within four (4) feet of the ground surface.

8. All appropriate design details necessary to clearly explain the construction of all surface and subsurface structures.

9. All acequias and irrigation ditches.

G. Construction Schedule

1. The start and finish dates for all clearing, grubbing and grading activities;

2. Duration of exposure of disturbed areas;

3. Stabilization date for disturbed areas;

4. Installation date of all storm drainage system components;

5. Installation date for all roads and related structural measures;

6. Paving dates for all roads or parking areas included in the site plan;

7. Installation date of each utility to be provided and whether said utility will be above or below ground.

8. Installation date for homes, recreational structures, and other community facilities and improvements;

H. Disclosure Statement regarding Terrain Management shall describe:

1. The suitability of the soils in the subdivision for residential and commercial use, whether permanent or seasonal;

2. Measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures;

3. The location of all lots with land areas within a flood way, flood fringe or flood plain, in accordance with FEMA standards;

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4. The location of all lots located on slopes in excess of 8 percent;

5. The known subsurface drainage for all lots;

6. The surface drainage for all lots;

7. All storm drainage systems including the completion date of systems required to be constructed.

Section 2: Performance Standards

The following performance standards are guidelines to the development of the Terrain Management Plan:

Soils

Soils having severe limitations, or which are unsuitable for the intended purposes, shall not be used, unless the developer has clearly shown in the terrain management plan how these limitations will be overcome.

Below are major categories of land use used in reviewing the terrain management plan. Information about any of these categories that is pertinent to the development proposal shall be included in the terrain management plan.

a. Building Site Development
b. Construction Materials
c. Local Roads and Streets
d. Underground Utilities
e. Water Control Structures
f. Erosion Control Structures
g. Playgrounds
h. Paths and Trails
i. Sewage Disposal

Grading

Land grading, filling, and clearing operations can cause many problems when performed incorrectly; such as when leaving large areas open to wind or water erosion.

In addition to conforming to soil suitability, grading, filling, and clearing operations, including road development, the subdivision shall be designed to fulfill the following requirements and be included in the terrain management plan as outlined below.

A. Preserve, match or blend with the natural contours of the land.

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1. The plan shall adequately describe how grading operations will be performed to blend slopes and fills into the natural contours of the land.
2. The plan shall indicate whether the subdivider intends to replace trees and other native vegetation, to stabilize hillsides and cut/fill slopes, retain moisture, reduce erosion, reduce runoff, and preserve the natural scenic beauty.
3. Cuts and fills shall be designed to minimize the area of exposure and reduce the sharp angles at the toe and sides.
4. The plan shall prevent the deposit of sediment into flood plains, drainage channels, watercourses, and water bodies.

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 watercourse, water body, drainage channel or floodplain.

2. Materials placed in any position that would make it susceptible to erosion and deposit into a watercourse, water body, drainage channel, or floodplain.

   a. The plan for grading, land forming, and protective cover shall provide for the prevention of soil sedimentation.

   b. The plan shall call for temporary or permanent structural measures to prevent damaging runoff waters from originating on the slope itself, if applicable.

   c. Planned structural measures shall adequately provide for the limitations of the site.

C. Whenever the existing ground cover is removed or disturbed, or whenever fill material is placed on site, the plan shall provide for the exposed surface to be treated to the extent necessary to prevent dust from blowing off the construction site.

D. The work schedule for the grading and filling operations shall limit the time soil is exposed to the shortest possible period before cover is established.

E. Provisions shall be made for disposal of vegetation during the clearing operation.

F. The plan shall describe the disposition of earth removed during grading operations.

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G. The maximum cut and fill slopes shall be compatible with soil stability and to the soil's susceptibility to erosion, as shown on the soil survey.

H. The plan shall include provisions to prevent runoff from flowing over the face of the slope.

I. If mechanical stabilization measures are planned for slope containment:

1. Theses structure shall blend with the landscape.
2. If structures do not blend in, landscape screening shall be planned.

J. If a borrow area is shown, re-vegetation shall be planned for the distributed area.

K. If arroyos or other overall areas are in the planning area, plans shall include rundowns to a safe outlet.

L. Plans shall include provisions for water and erosion control in bar ditches along streets and roads.

Flood Plain Management

Subdivisions and developments shall be planned, constructed, and maintained so that:

A. Dwellings shall not be located within the 100-year flood plain.

B. Structures, material deposits, or excavations, alone or in combination with present or future works, shall not adversely affect the capacity of the floodplain.

C. Roads are not to be located in the floodplain, unless specifically approved by the New Mexico Department of Transportation, and roads shall not conflict with B above.

D. Structures with the potential for high flood damage and confining, animal shelters shall not be located in the floodplain.

E. Existing utilities, and proposed utilities, shall be free from threat of flood damage.

The preferred method of watershed hydrology evaluation is NRCS Technical Release 55, "Urban Hydrology for Small Watersheds" or Chapter 2 of the NRCS Engineering Field Manual. Other methods such as HEC2, HYMO/AHYMO, or the rational method are acceptable, if sufficient supporting data is presented and deemed adequate by the reviewer.

Flood line elevations and locations are of primary importance. It is imperative that the 100-year flood line elevations and locations be shown on the plat map. Damage from

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flooding is a function of flow depths and velocity. In appraising the flood damage potential, the magnitude and location of the velocities shall be considered. Erosion and sediment disposition are good indicators of damage that has occurred in the past.

Areas of potential flooding are identified in soil limitations. While these are not usually accurate enough to identify the 100-year flood zone, they will be useful indicators of areas needing careful study by the developer. The use of FEMA Flood Hazard Maps, by themselves, is also not considered adequate for locating all possible 100-year flood plains within the development. These maps may note the presence of the larger drainage flood hazard areas, but do not delineate the smaller areas needed to be identified within a proposed subdivision. Even the smallest of watersheds has a floodplain, but the intent of the review is to note those drainage courses that will flood and impact the proposed land use of the subdivision. The smaller drainage course must not be overlooked. It must be properly identified as a potential floodplain hazard, if the drainage course crosses numerous lots where activities by the upstream lot owner may directly or indirectly change or alter the flow pattern of these watercourses. The developer must note the major water courses having flood plains on the plat maps, but additionally, the developer must identify those smaller drainage channels and water courses that may originate on or off the development and cross a number of lots and present a potential hazard, if altered by upstream activities. Rather than identify these smaller drainage channels as 100-year floodplain drainage easements, the designation and evaluations required for the larger drainage channels -- the platting of a natural water course with a perpetual easement for facilitating the natural water patterns shall be encouraged, or required when deemed necessary. This will allow the floodwaters to move through the natural, as well as the man made flood channels, without being obstructed. Care must be given to consider those watercourses that do not have definite and distinct banks, but are flood plains due to an overland flow condition.

Storm Drainage

Subdivisions and developments shall be planned, constructed and maintained to:

A. Protect and preserve existing natural drainage channels except where erosion and water control measures are found necessary and approved by the local district.

B. Provide temporary measures to prevent damaging runoff waters from leaving the site, until construction is completed and permanent control measures are installed.

C. Protect structures and other works from flood hazards using the 100-year frequency storm for calculating flood levels.

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D. Provide a system wherein runoff water within the subdivision is removed without causing harm or damage to the environment, property, or persons, inside or outside the subdivision area.

E. Assure that water drained from the subdivision does not contain pollutants or sedimentary materials of any greater quantity than would occur in the absence of the subdivision.

F. Assure that waters are drained from the subdivision in such a manner that they will not cause erosion outside of the subdivision to any greater extent than would occur in the absence of the subdivision.

G. Assure that road construction provides proper drainage by:

1. Avoiding water-ponding areas resulting from road construction, unless plans are developed that will adequately address the conditions.

2. Roads planned to be used in collecting or disposing of runoff shall be designed to ensure adequate control of the flows that prevent erosion and sedimentation.

3. Road-drain outlets into an existing drainage course shall be designed to prevent erosion in the drainage course.

4. Road-drain outlets into a controlled area.

5. Road culverts shall be properly sized and located and of adequate length, and described in the plan.

6. Road culvert inlets and outlets shall be adequately protected.

All storm drainage systems shall be constructed in accordance with the standards of the local district as deemed necessary for the site conditions of the proposed subdivision. If the drainage basin where the subdivision is located is only partially developed, the local district shall require that the design and construction of the drainage system shall have sufficient flow capabilities, based on the assumption the entire basin will be developed.

Development of an area is almost certain to cause an increase in runoff and sediment. The possible adverse effects of such increase shall be analyzed. Special consideration shall be given to the existing or planned bridge, culvert, and road crossing sizes, and the stability and capacity of the existing or planned watercourses. All planned construction of roads and their appurtenances shall be reviewed to ensure they do not adversely impact the storm drainage flows. It is recognized that stable water courses may start to degrade, when exposed to larger, more frequent or longer flows that may result from development.

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Diversions, debris basins, retaining walls, terraces, berms and vegetative means shall be used as needed to reduce sediment and runoff. It is recognized that, once treated and sediment levels of storm runoff are reduced, the water is once again more likely to be able to increase erosion in areas not previously impacted due to its new found ability to erode and transport sediments.

The shaping of large natural channels usually increases the channel run-off velocity, which may result in increased erosion absent measures to slow velocities and protect the banks.

Excavated and filled slopes shall generally be 3:1 or flatter.

Erosion Control

The plan shall clearly indicate that installed measures will prevent or control erosion. The following items shall be considered:

A. Road grades shall be designed flat enough to prevent erosion, based on the soils involved.

B. Borrow areas or drainage features shall be designed to prevent erosion or sediment deposition.

C. Culvert inlets and outlets shall be properly protected from erosion and sedimentation.

D. Critical area treatment or special plantings may be needed. If so, the plans shall be in keeping with the landscaping and re-vegetation plan procedures.

E. Temporary soil stabilization may be needed during development. If so, it shall be adequately planned in accordance with local district Field Office Technical Guides.

F. Soil stabilization methods shall be planned on permanent slopes where found necessary by the local district.

Landscaping and Re-Vegetation

Re-vegetation is an important part of any subdivision plan. A definite time schedule for installing plant cover is necessary to prevent erosion. The need for re-vegetation is an integral part of several other sections involved in terrain management. The following items will be considered when reviewing the vegetation portion of a subdivision plan:

A. Species scheduled for planting shall be adapted to the soils and the local climate. The use of any species considered noxious, or a weed species that could enhance the distribution of undesirable species, will not be allowed.

B. Planting dates shown in the plan shall agree with the Taos Soil and Water Conservation District Field Office Technical Guides.

C. Seeding rates shown in the plan shall meet the minimum set forth in the Taos Soil and Water Conservation District Field Office Technical Guides.

D. Seeding or planting methods shall be compatible with the methods in the Taos Soil and Water Conservation District Field Office Technical Guides.

E. Mulching of seeding areas shall be a part of the plan, and shall be compatible to the Taos Soil and Water Conservation District Field Office Technical Guides and the Critical Area Treatment for Urban Development publication.

F. Existing vegetation shall be left undisturbed whenever possible. The plan shall adequately ensure these areas are not adversely impacted during the construction of the subdivision.

Reference / Agency Materials

Albuquerque Office of the Army Corps of Engineers

Critical Area Treatment for Urban Development, Ciudad SWCD- USDA, SCS –

Albuquerque Health & Energy Dept. Air Pollution Control Division

Guide for Interpreting Engineering Uses of Soils, USDA, SCS

Engineering Field Manual for Conservation Practices, Chapter 2- Peak Rates of Discharge for Small Watersheds in New Mexico, USDA, SCS

Field Office Engineering Field Handbook, USDA, SCS

Field Office Technical Guides, USDA, NRCS

Field Office Technical Notes, USDA, NRCS

Natural Resource Conservation Districts Practice, Standards for Terrain Management, NM Assoc. of Soil & Water Conservation Districts New Mexico Subdivision Review Guide, USDA, SCS 1989

National Agronomy Manual, USDA, SCS

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National Plant Materials Handbook, USDA, SCS

National Range Handbook, USDA, SCS

National Soils Handbook, USDA, SCS

Published Soil Surveys and Soils Interpretation Sheets by the USDA, NRCS

TR 20 – Computer Program for Project Formulation – Hydrology, USDA, SCS

TR 55- Urban Hydrology for Small Watersheds, USDA, SCS

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APPENDIX F

Protection of Cultural Properties, Archeological Sites and Unmarked Human Burials

Taos County hereby declares that the historical and cultural heritage of the county is one of its most valued and important assets; that the public has an interest in the preservation of all antiquities, historic and prehistoric ruins, sites, structures, objects and similar places and things for their scientific and historical information and value; that the neglect, desecration and destruction of historical and cultural sites, structures, places and objects results in an irreplaceable loss to the public; and that therefore it is one of the purposes of these Regulations to provide for the preservation, protection and enhancement of structures, sites and objects of historical significance within the county, pursuant to the Cultural Properties Act, Section 18-6-1 through 18-6-17, NMSA 1978, and in a manner conforming with, but not limited by, the National Historic Preservation Act of 1966 (P.L. 89-665 as amended), both of which shall apply. Additionally, Taos County shall require the following:

A. The subdivider shall report any unexpected discoveries of cultural property, i.e. a structure, place, site or object having historic, archeological, scientific, architectural, or other cultural significance, during construction activities to the Planning Department and to the State Historic Preservation Office. Construction activities shall temporarily cease within the area of the discovery, which shall be determined by the area in which cultural property is endangered.

B. If an archeological site, i.e. a location where there exists material evidence of the past life and culture of human beings in this state, not including sites of burial of human beings, is suspected or encountered during construction activities, the subdivider shall retain a professional archaeologist, who holds a current New Mexico Archeological Survey permit, to determine the archeological significance and data potential of the site. The archeological consultant shall prepare a brief report on the findings and submit the report to the New Mexico Historic Preservation Division Office for review and comment. If the site is determined to be significant and to have data potential, then:

   i. The archeologist shall determine a buffer area wherein construction activities shall temporarily cease;

   ii. The subdivider shall present a treatment plan to the New Mexico Historic Preservation Division Office for approval. The treatment plan shall meet minimum requirements as outlined in regulations and guidelines issued by the Cultural Properties Review Committee

and the State Historical Preservation Office for preparation of research designs for data recovery from archeological sites; and

iii. The presence of an archeological site(s) shall be disclosed to potential buyers of lots within the subdivision in order to protect the site and to afford the buyer the opportunity to accept or reject responsibility for the site, which might include restrictions on groundbreaking activities.

C. Human remains are considered part of an archeological record, and shall be afforded special treatment pursuant to NMSA 1978, Section 18-6-11.2, of the Cultural Properties Act.

i. If unmarked human remains are discovered, any construction activity affecting the remains shall cease and the local law enforcement agency shall be contacted. The local law enforcement agency shall notify the New Mexico Medical Investigator and the New Mexico Historic Preservation Officer.

ii. If the human remains are less than seventy-five (75) years of age, the Office of the New Mexico Medical Examiner will determine the proper jurisdiction.

iii. If the remains are determined to be prehistoric or isolated burials of early historical age, the site is considered to be significant and the treatment plan shall additionally include consideration of local Native American or other religious concerns, or if applicable, shall include notification of possible relatives or descendants.

iv. If the remains represent permanent interment in any church, churchyard or cemetery, they may not be disturbed without a district court order. NMSA 1978, Section 30-12-12.

D. While Taos County has no jurisdiction to enforce the Act, be advised that if a human burial site is discovered on federal or tribal lands, the Native American Graves Protection and Repatriation Act (P.L. 101-601, Nov. 16, 1990) shall apply, if such remains are determined to be Native American. If human remains on federal or tribal lands are not Native American, NMSA 1978, Section 18-6-11.2 of the Cultural Properties Act applies.

Failure to report such finds may result in criminal penalties, and an award of damages and the imposition of civil penalties, as provided by law.

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APPENDIX G

DISCLOSURE STATEMENT FOR ALL SUBDIVISIONS

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

Prior to selling, leasing or otherwise conveying any land in a subdivision, the subdivider shall disclose in writing such information as the board of county commissioners requires, by regulation, to permit the prospective purchaser, lessee or other person acquiring an interest in subdivided land to make an informed decision about the purchase, lease or other conveyance of the land.

This disclosure statement is intended to provide you with enough information to make an informed decision on the purchase, lease or acquisition of the property described in this statement. You should read carefully all of the information contained in this disclosure statement before you decide to buy, lease or otherwise acquire the described property.

Various public agencies may have issued opinions on both the subdivision proposal and the information contained in this disclosure statement. Summaries of these opinions are contained in this disclosure statement. They may be favorable or unfavorable. You should read them closely.

The Board of County Commissioners or its designee has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has disclosed in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, 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 recommends that you inspect the property before buying, leasing or otherwise acquiring it.

If the purchaser, lessee or other person acquiring an interest in the subdivided land has not inspected his parcel prior to the time of purchase, lease or other conveyance, the purchase agreement, lease or other document of conveyance shall contain a provision giving the purchaser, lessee or other person acquiring an interest in the subdivided land six (6) months within which to personally inspect his parcel. After making the personal inspection within the six-month period, the purchaser, lessee or other person acquiring an interest in the subdivided land has the right to rescind the purchase agreement, lease or other document of conveyance and receive a refund of all funds paid on the transaction to the seller, lessor or other conveyor of subdivided land when merchantable title is revested in the seller, lessor or other conveyor of subdivided land. Notice of such

rescission to the seller, lessor or other conveyor of subdivided land shall be made in writing and shall be given within three days of the date of personal inspection.

County regulations require that the subdivider shall record the deed, real estate contract, lease or other instrument conveying an interest in a lot in the subdivision be recorded with the Taos County Clerk within thirty (30) days of the signing of such instrument by the purchaser, lessee or other person acquiring an interest in the land.

Building permits, wastewater permits or other use permits must be issued by state or county officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease, or otherwise acquire an interest in the land. You should also determine whether such permits are required for construction of additional improvements before you occupy the property.

1. **Name of Subdivision:**

_____

_____

2. **Name, Address and Telephone Number of Subdivider:**

_____

_____

_____

_____

3. **Name, Address and Telephone Number of Person in Charge of Sales, Leasing, or Other Conveyance in New Mexico:**

_____

_____

_____

_____

4. **Total Acreage of the subdivision, both present and anticipated:**

Present _____

Anticipated _____

5. **Size of the largest parcel offered for sale, lease or other conveyance within the subdivision:**

_____

6. **Size of smallest parcel offered for sale, lease or other conveyance within the subdivision:**

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7. **Proposed range of prices upon sale, lease or other conveyance within the subdivision:**

8. **Financing Terms upon sale, lease or other conveyance within the subdivision:**

9. **Distance from the nearest town to the subdivision and the route over which the distance is computed:**

10. **Name, address and telephone number of the person having legal and equitable title to the land offered for sale, lease or other conveyance:**

11. **A statement of the condition of title including any emcumbrances.**

12. **A statement of all restrictions or reservations of record that subject the subdivided land to any conditions affecting its use or occupancy:**

13. **An update of the title commitment or an attorney memorandum based upon an abstract of title, current as of the date of submitting the plat.**

14. **Name, Address and Telephone Number of the escrow agent, if any:**

15. **A statement as to availability, location, costs and provider of public utilities:**

A. Water

B. Electricity

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C. **Telephone**

D. **Gas**

E. **Solid Waste**

16. **A statement describing the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses:**

17. **A statement of availability of/and source of water to meet the maximum annual water requirements:**

18. **A statement describing the quality of water in the subdivision available for human consumption:**

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19. A description of the means of liquid waste disposal for the subdivision:

20. A description of the means of solid waste disposal for the subdivision:

21. A description of the means of water delivery within the subdivision and of any known plans for extension of the system:

22. A statement describing limitations and restrictions on water use:

23. Water conservation provisions included in the protective covenants:

24. Water use monitoring:

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25. **The average depth to water within the subdivision if water is available only from subterranean sources:**

A. Average depth to water:

B. Maximum depth to water:

C. Minimum depth to water

D. Recommended total depth to wells

E. Recommended pump setting and sizes

F. Lithological characteristics of formations through which well is to be completed:

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G. **Life Expectancy of Water Supply:**

26. A description of access to the subdivision:

27. A statement disclosing whether the roads and other improvements within the subdivision will be maintained by the county, the subdivider or an association of lot owners and what measures have been taken to ensure the maintenance will take place:

28. A description of the subdivider's provisions for terrain management:

A. **Soil Suitability:**

B. **Floodways, Flood Fringes, and Flood Plains:**

C. **Slopes in Excess of 8%:**

D. **Surface Drainage:**

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E. **Storm Drainage Systems:**

29. **A summary, approved by the issuing state agency, of opinions, if any, whether favorable or adverse, provided by state agencies to the Board of County Commissioners concerning any of the points listed above:**

30. **A statement that the subdivider shall record the deed, real estate contract, lease or other instrument conveying an interest in subdivided land with the Taos County Clerk within thirty (30) days of the signing of such instrument by the purchaser, lessee or other person acquiring an interest in the land:**

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31. **A statement advising the purchaser, lessee or other person acquiring an interest in subdivided land that building permits, wastewater permits or other use permits are required to be issued by state or county officials before improvements are constructed; and further, the purchaser, lessee or other person acquiring an interest in the subdivided land is advised to investigate the availability of such permits before purchase, lease or other conveyance and whether these are requirements for construction of additional improvements *before* the purchaser, lessee or person acquiring an interest in the subdivided land may occupy the property:**

32. **Such other information as the Board of County Commissioners may require:**

33. **A statement of any activities or conditions adjacent to or nearby the subdivision that would subject the subdivided land to any unusual conditions affecting its use or occupancy:**

34. **A description of all recreational facilities, actual and proposed, in the subdivision:**

35. **A statement as to the availability of:**

A. **Fire Protection, including proposed fire protection plan, distance to nearest fire station from subdivision, route over which that distance is computed, and whether the fire department if full time or volunteer:**

B. **Police Protection**

C. **Public Schools for the inhabitants of the subdivision, including a statement concerning the proximity of the nearest elementary and secondary schools**

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D. **Hospital Facilities, including distance to nearest hospital and route over which that distance is computed, and number of beds in nearest hospital**

E. **Shopping Facilities, description of, distance to, and route over which that distance is computed**

F. **Public Transportation serving subdivision on regular basis**

G. **Archeological Sites, description of those located in or adjacent to the subdivision**

36. **A statement setting forth the projected dates upon which any of the items mentioned in 32-34 for which the subdivider has responsibility will be completed if they are not yet completed:**

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37. If the location is not confidential, a statement of whether the subdivider is aware of cultural property, i.e. a structure, place, site or object having historic, archeological, scientific, architectural, or other cultural significance, is present at the site of the subdivision. If so, describe. (Revise answer, if cultural property is discovered after construction activity begins.)

UPON MY OATH, AND UNDER PENALTY OF PERJURY, I AFFIRM THAT THE INFORMATION PROVIDED BY ME IN THIS DISCLOSURE STATEMENT IS TRUE AND CORRECT AND THAT ALL DOCUMENTS ATTACHED TO OR ENCLOSED WITH THIS DISCLOSURE STATEMENT, ARE ORIGINALS OR TRUE, COMPLETE, AND CORRECT COPIES OF THE ORIGINALS.

Signature

Print Name

Address

City State Zip

Physical Address

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ACKNOWLEDGMENT

State of _____)
) ss.
County of _____)

On this _____ day of _____, 20___, before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his own free act and deed.

(SEAL)

_____
Notary Public

My Commission Expires: _____

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APPENDIX H

AGREEMENT TO ASSURE COMPLETION OF INFRASTRUCTURE

THIS AGREEMENT is made this _____ day of _____, 20___, by and between the applicant(s) or duly authorized agent of applicant(s), _____ hereinafter "OWNER"), dba _____ SUBDIVISION (hereinafter "SUBDIVISION"), and the COUNTY OF TAOS, NEW MEXICO, a political subdivision of the State of New Mexico (hereinafter "TAOS COUNTY").

WITNESS:

WHEREAS, OWNER has received approval for the SUBDIVISION conditioned upon TAOS COUNTY'S receipt and approval of documentation to assure completion of the infrastructure improvements within the SUBDIVISION, pursuant to the Decision of the Planning Commission filed _____ and/or the Decision of the Board of County Commissioners filed _____; and

WHEREAS, OWNER has received an estimate of the costs to improve the roadways by the following licensed engineer or engineering firm: _____, including estimates of costs to otherwise complete all infrastructure requirements, Exhibit "A" hereto and incorporated herein, which requirements are set forth in decisions of the Planning Commission and/or Board of County Commissioners; and

WHEREAS, OWNER has submitted for approval, and TAOS COUNTY has approved, a form of Letter of Credit to be used to assure completion of SUBDIVISION infrastructure, a copy of which is attached hereto as Exhibit "B" and incorporated herein; and

WHEREAS, the parties hereto wish to memorialize their agreements related to completion of SUBDIVISION infrastructure as hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the mutual receipt and sufficiency of which is hereby acknowledged, the parties hereto do agree as follows:

(1) Taos County accepts the form of Letter of Credit, attached as Exhibit "B" hereto, to be issued by _____ for the benefit of Taos County to assure SUBDIVISION'S completion of required infrastructure improvements in SUBDIVISION.

(2) OWNER agrees to commence no infrastructure improvement construction within SUBDIVISION until a Letter of Credit, in the form attached as Exhibit "B", has been issued to Taos County to assure completion of such construction.

(3) The Letter of Credit shall be issued in an amount sufficient to complete the required infrastructure improvement *plus* ten percent (10%), which ten percent (10%) shall be deemed contingency reserve.

(4) Owner agrees with Taos County that no sales contract will be executed by Owner for the sale of any lot in SUBDIVISION until a Letter of Credit in the form attached has been issued and delivered to Taos County to assure completion of

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required roadway improvements and other required improvements within SUBDIVISION.

(5) OWNER agrees to notify the Taos County Public Works Department prior to commencement of roadwork. OWNER agrees that Taos County Public Works Department shall inspect the Type ____ roadway as necessary as determined by the department.

(6) Draws made by OWNER to pay for infrastructure improvements shall be made during the course of construction when approved by OWNER'S engineering consultant, _____. At such time as fifty percent (50%) of the budgeted funds are spent, or sooner and more frequently as the parties mutually agree, OWNER agrees to obtain a written confirmation from Taos County that the Letter of Credit obligation has been reduced accordingly. Upon completion of infrastructure construction and its approval by Taos County, Taos County Agrees to execute and deliver to OWNER a Termination of Agreement to Assure Completion of Infrastructure in the form attached as Exhibit "C."

(7) OWNER agrees with Taos County that, in the event that OWNER determines to sell the entire SUBDIVISION to one purchaser, closing of the sale transaction shall be contingent upon such purchaser entering into a binding agreement with Taos County to provide a Letter of Credit or other acceptable security to complete required infrastructure improvements.

(8) OWNER agrees to provide the following listed improvements not later than 180 days after the first Lot is sold:

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(a) [Here list infrastructure improvement requirements set forth in the Decision of the Planning Commission and/or Board of County Commissioners.]

(b) . . .

(c) . . .

(9) The parties agree that this Agreement:

(a) shall be construed in accordance with the laws of the State of New Mexico;

(b) shall in no way abrogate OWNER'S additional responsibilities pursuant to conditions of approval set forth in the Decision of the Planning Commission and/or Board of County Commissioners entered in the records of the County Clerk on _____, 20____.

(c) except for all conditions of approval set forth in the Decision of the Planning Commission and/or Board of County Commissioners entered in the records of the County Clerk on _____, 20____, not set forth herein, embodies the understandings of the parties hereto relative to infrastructure improvements; and

(d) should any portion of this Agreement be determined to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

(10) OWNER or OWNER'S agent hereby certifies to TAOS COUNTY that he/she is authorized to affix his/her signature hereto and bind OWNER for the uses and purposes set forth herein.

IN WITNESS WHEREOF, the parties hereto set their respective signatures.

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OWNER OR AGENT OF OWNER OF SUBDIVISION

By: _____

(Circle "Owner" or "Agent")

TAOS COUNTY

By: _____

Chairman, Board of County Commissioners

APPROVED AS TO FORM:

_____

Planning Director

_____

County Attorney/Deputy District Attorney

ACKNOWLEDGMENTS

STATE OF NEW MEXICO)
) ss.
COUNTY OF TAOS)

On this _____ day of _____, 20____, before me personally appeared _____, to me known to be the OWNER or AGENT OF OWNER that executed the foregoing instrument, and acknowledged to me that he/she executed the same as his/her own free act and deed on behalf of OWNER.

(SEAL)

_____
Notary Public

My Commission Expires:

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STATE OF NEW MEXICO)
) ss.
COUNTY OF TAOS)

On this _____ day of _____, 20____, before me personally appeared _____, Chairman of the Board of County Commissioners of Taos County, a political subdivision of the State of New Mexico, to me known to be the person that executed the foregoing instrument, and acknowledged to me that he/she executed the same as his/her own free act and deed on behalf of TAOS COUNTY.

(SEAL)

_____
Notary Public

My Commission Expires:

_____

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EXHIBIT "A"

(TO BE PROVIDED BY OWNER -- ENGINEER'S ESTIMATE STAMPED BY ENGINEER)

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EXHIBIT "B"

(BANK LETTERHEAD)

Taos County
Attn: Taos County Attorney
105 Albright Street, Suite A
Taos, New Mexico 87571

STANDBY LETTER OF CREDIT

We hereby establish, at the request of and for the account of_____
_____
("Borrower"), in favor of Taos County, New Mexico ("Beneficiary"), our Standby Irrevocable Letter of Credit No._____("Letter of Credit"). With this Letter of Credit, we hereby irrevocably authorize Beneficiary to draw on_____Bank ("Issuer"), in accordance with the terms and conditions hereinafter set forth, by executed draft, in an amount not exceeding_____ ($_____) in United States currency.

This Letter of Credit represents security for Borrower's completion of infrastructure improvements required by Beneficiary as a condition of approval for the_____ Subdivision, which lies within the platting and planning jurisdiction of Beneficiary.

Beneficiary acknowledges that the amount obligated under this Letter of Credit shall be reduced to the extent of funds paid by Borrower for infrastructure improvements.

Beneficiary may draw funds against this Standby Letter of Credit only under the following conditions and in accordance with the following terms:

1. Funds against the Letter of Credit are available to Beneficiary's executed draft drawn on Issuer. The draft presented to Issuer for payments hereunder must state upon it's face: "Drawn under Letter of Credit No._____ dated _____, of _____ Bank."

2. The draft must be executed by a duly authorized agent of Beneficiary, who must certify that, as of date of the draft, Borrower has failed to comply with the requirements imposed by Beneficiary when it granted approval of final plat. The draft must also state the Beneficiary will use the funds issued pursuant to this Letter of Credit solely for the purpose of completing the above-referenced improvements to _____ Subdivision in

accordance with the plans and budget on which conditional final plat approval was based.

3. The maximum amount in which the draft hereunder will be honored for each of the above improvements shall in no event exceed the amount set forth above for work completed pursuant to the Agreement to Assure Completion of Infrastructure noted above between Owner and Taos County.

4. Payment shall be by cash or cashier's check. Payment shall be made three days after sight.

5. Presentation of the draft and accompanying document may be made by hand, certified mail or by overnight delivery service during regular banking hours on any day in which presentation may be made at the office of Issuer located at _____. Upon receipt of the draft, Issuer will, in conformance with the requirements of this Letter of Credit and the provision of the Uniform Commercial Code, honor the draft.

This Letter of Credit is effective_____, 20____ and matures one year from the date of issue. This Letter of Credit can be renegotiated and re-issued every twelve months for an amount that equals the remaining costs to complete the required infrastructure improvements based on the original engineer's estimate less any improvements made to date. This amount will be confirmed by an independent engineer's estimate prior to renewal.

_____Bank

By:_____
Name
President

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EXHIBIT "C"

TERMINATION OF AGREEMENT TO ASSURE COMPLETION OF INFRASTRUCTURE

THIS TERMINATION OF AGREEMENT TO ASSURE COMPLETION OF INFRASTRUCTURE is dated this_____day of _____,20____, by and between_____, and the County of Taos, a political subdivision of the State of New Mexico ("TAOS COUNTY"). WITNESS:

WHEREAS, on the_____day of_____, 20____, _____ entered into that certain Agreement to Assure Completion of Infrastructure with the County of Taos, which was filed in Book_____, at Page_____, in the records of the Taos County Clerk, Taos, New Mexico; and

WHERAS, as of the _____ day of _____, 20____, due certification of the completion of required infrastructure was provided to Taos County by the project's engineer, _____, and the Taos County Department of Public Works inspected and approved such completion.

NOW, THEREFORE, in consideration thereof, _____ and TAOS COUNTY do hereby terminate the agreement and _____ is, accordingly, absolved from further responsibilities thereunder.

IN WITNESS WHEREOF, the parties hereto have set their respective signatures.

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COUNTY OF TAOS, NEW MEXICO
("TAOS COUNTY")

By:_____
Date:_____
Name, Chairman
Taos County Board of Commissioners

_____
Date:_____
"OWNER"

ACKNOWLEDGMENTS

STATE OF NEW MEXICO)
) ss.
COUNTY OF TAOS)

On this _____ day of _____, 20____, before me personally appeared _____, OWNER, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his own free act and deed.

(SEAL)

_____
Notary Public

My Commission Expires:
_____.

STATE OF NEW MEXICO)
) ss.
COUNTY OF TAOS)

On this _____ day of _____, 20___, before me personally appeared _____, Chairman of the Taos County Board of Commissioners, a political subdivision of the State of New Mexico, to

me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his own free act and deed on behalf of TAOS COUNTY.

(SEAL)

Notary Public

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My Commission Expires:

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APPENDIX I

FILE No._____

CLAIM OF EXEMPTION

To claim an exemption from the requirements of the Taos County Subdivision Ordinance, you must complete this form, sign it before a notary public and submit it together with legible copies of all required documents to the Taos County Planning Director, 105 Albright Street, Suite C, Taos, New Mexico 87571. Be sure to check all exemptions that apply and attach legible copies to all supporting documents.

The Taos County Planning Department will notify you in writing within thirty (30) days as to whether your claim of exemption has been granted. If the claim of exemption is granted, or if you do not hear from the County Planning Department within thirty (30) days (deemed approved for failure to act), you may proceed with the land division you propose by filing your deed and survey. If your claim of exemption is denied, you may either seek approval of a subdivision or appeal the denial as provided in these Regulations.

I,_____, claim an exemption from the requirements of the New Mexico Subdivision Act and the Taos County Subdivision Regulations for the following reason(s), which I certify that this transaction involves:

- ☐ 1. The sale, lease or other conveyance of any parcel that is thirty-five (35) acres or larger in size within any twelve (12) month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with § 7-36-20 NMSA 1978, for the preceding three (3) years. **Attach certified survey showing size and location of parcel and any retained parcel and copies of the proposed documents of conveyance.**

- ☐ 2. The sale or lease of apartments, offices, stores or similar space within a building. **Attach copies of proposed lease or documents of conveyance.**

- ☐ 3. The division of land within the boundaries of a municipality. **Attach certified survey showing size and location of parcel and any retained parcel and copies of the proposed documents of conveyance.**

- ☐ 4. The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land. **Attach copies of all proposed documents of conveyance, including lease(s).**

- ☐ 5. The division of land created by court order where the order creates no more than one parcel per party. **Attach certified copy of court order. Also attach copies of the proposed documents of conveyance and a certified survey showing size and location of parcels.**

☐ 6. The division of land for grazing or farming activities provided that the land continues to be used for grazing or farming activities. **Attach copy of proposed document(s) of conveyance that restricts future use to grazing or farming activities.**

☐ 7. The division of land resulting only 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. **Attach certified surveys showing all parcels and parcel boundaries before and after proposed alteration. Also attach documents of conveyance effecting the lot line adjustment(s) demonstrated on the surveys.**

☐ 8. The division of land to create burial plots in a cemetery. **Attach copy of certified survey showing the boundaries of the property and the location of the cemetery. Also, provide documentation that the cemetery site is not within a flood plain.**

☐ 9. 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. As used herein the term 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 birth or adoption. **Attach a copy of proposed document of conveyance and birth certificate, adoption certificate, or other document demonstrating family relationship claimed. (Baptismal certificates are not acceptable.) Also attach a certified survey plat showing the boundary and size and location of the original tract or parcel and the size and location of the parcel proposed to be conveyed to the family member. Include the name of the family member on the parcel that is to be conveyed. Attach evidence of fair market value of the property. Also attach a copy of any purchase contract and mortgage, if applicable; and if the family member is a spouse, submit a separate property agreement or other evidence of separate ownership of the parcel. Attach evidence that the transfer is, in whole or in part, a *bona fide* gift (See Attachment "2".).**

☐ 10. The division of land created to provide security for mortgages, liens or deeds of trust; provided that the division is not the result of a seller-financed transaction. **Attach copies of all financing documents. Also, attach copy of a certified survey showing the size and location of the original tract and the parcel that is being divided. That plat shall include an affidavit by the property owner declaring that any parcel created to provide security for mortgages, liens or deeds of trust, will be properly merged with the original parcel once the mortgage, liens or deeds of trust have been exonerated.**

☐ 11. The sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres. **Attach certified survey showing location and size of parcel(s) to be conveyed and retained. Also attach copies of the documents of conveyance.**

☐ 12. The division of land to create a parcel that is donated to any trust or non-profit corporation granted an exemption from federal income tax, as described in § 501 (C) (3) of

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the Unite 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. **Attach copies of IRS exemption letter, and/or documents demonstrating entitlement to exemption and certified survey showing land proposed to be donated. Also attach copies of the proposed documents of conveyance.**

☐ 13. 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 (5) year period; provided that a second or subsequent sale, lease or other conveyance from the same tract of land within five (5) years of the first sale, lease or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act and these Regulations; provided further that a survey shall be filed with the County Clerk indicating the five (5) year holding period for both the original tract and the newly created tract, which holding period shall preclude the use of this exemption to further divide either the original or the newly created tract. **Attach certified survey showing size and location of original tract, parcel proposed to be divided, any parcels previously divided from the original tract and dates of all divisions. Also attach copies of the proposed documents of conveyance.**

READ ATTACHMENT "1" HERETO REGARDING COMMON PROMOTIONAL PLANS.

➤**FEE: One Hundred Fifty Dollars ($150.00) per each Claim of Exemption**

Upon my oath, and under penalty of perjury, I affirm that the information provided by me in this Claim of Exemption is true and correct and that all documents attached to or enclosed with this Claim of Exemption are originals or true, complete, and correct copies of the originals. I further affirm that I have read and I understand Attachment "1" hereto regarding Common Promotional Plans, and that my Claim of Exemption is legitimate.

_____
Signature

_____
Print Name

_____
Address

_____
City, State Zip

_____
Telephone Number(s)

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State of _____)
) ss.
County of _____)

Signed and sworn to before me on this _____ day of _____, 20____, by _____.

_____My Commission Expires:_____
Notary Public

FOR OFFICIAL USE ONLY

- ☐ The foregoing Claim of Exemption has been approved.
- ☐ Claim of Exemption is incomplete. Please provide us with the following information and/or documents so that we can process your claim: _____

- ☐ The foregoing Claim of Exemption is herby denied for the following reasons: _____

Date:_____ _____
(Name and Title)

FEE PAID: _____

(Attach Copy of Receipt to this Application)

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ATTACHMENT "1"

COMMON PROMOTIONAL PLANS

Special care must be taken by the subdivider to avoid a common promotional plan. "Common promotional plan" is defined in the New Mexico Subdivision Act, 1978 NMSA, § 47-6-2 (M), as "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 a common unit or by a common name." Any such plan is unlawful, and it is the responsibility of the subdivider to be aware of the law so as to avoid such a plan.

Subdividing Land in New Mexico, Second Edition, issued by the Office of the Attorney General of New Mexico, contains sections on "Illegal Subterfuges Designed to Avoid the Subdivision Laws" and "Common Promotional Schemes" (pages 47-55). The following brief overview was adapted from those sections:

There are two basic tests the courts and the Attorney General have applied in determining whether a subdivider has legitimately taken advantage of an exception to the subdivision laws or has engaged in an illegal subterfuge designed to circumvent the laws:

1. Is the division of the land in substance rather than in appearance a subdivision of land as defined by the applicable statutes?

2. Are the transactions involved in the subdivision of the land (i.e., transfers, gifts, partitions, incorporations, sales, leases, etc.) *bona fide* and *arms length* transactions?

Further, in order not to be considered a subdivision, each land division and sale must be independent and the result of arms length negotiations without further tie-ins between the parties that would render the purchaser or donee of the land an agent, partner or business associate of the seller.

In order to determine whether divisions and sales are independent and not part of a common scheme or business venture, the following factual considerations are significant although each factor alone may not be conclusive:

(a) whether the transfer and sale of the parcels of land were made for adequate consideration in an arms length manner;
(b) whether the property was transferred between close relatives, business associates or partners;
(c) the extent of legal or practical control which is retained by the seller or grantor over the further division and sale of the parcels;

(d) the "sharing" of the profits and losses made or incurred by subsequent purchasers or grantees by their later sale and division of the property with the original grantor or seller;

(e) whether the land area is actually sold through a common promotional scheme with common real estate brokers or agents, common advertising, financing, or bank escrowing, etc.;

(f) whether the actual legal status of subsequent purchasers is not, for all practical purposes, tantamount to a straw man or shell corporation, and thus part of a common scheme or conspiracy to evade the laws;

(g) whether there are any other factual considerations to indicate that there is intent to evade the provisions of the subdivision statutes, and that, in fact, a subdivision has been created.

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ATTACHMENT "2"

STATE OF NEW MEXICO _____)
) ss.
COUNTY OF TAOS _____)

AFFIDAVIT
(Limited to Claim of FAMILY Exemption)

I, _____, being first duly sworn, upon my oath, do state:

1. I have claimed a family exemption, pursuant to NMSA 1978, 47-6-2(J)(9) and the Taos County Subdivision Regulations.

2. The division of land that I propose is a gift and/or sale to a family member as defined by the Act and the Regulations cited above and is a bona fide and legitimate transaction for which I will a) report and pay any gift and/or income tax liability resulting therefrom and b) file a property transfer (price) affidavit with the Taos County Assessor, if so required by NMSA 1978, § 7-38-12.1, of the New Mexico Property Tax Code.

3. I will retain no personal financial interest or control over the parcel to be divided and conveyed to my family member, other than as real estate contract seller or mortgagee. The family-member grantee shall be granted all control over the development, sale, or lease of the property. I will receive no proceeds, monetary or otherwise, other than as real estate contract seller or mortgagee, from such development, sale or lease of the property by the family-member grantee.

_____
Applicant for Claim of Exemption

VERIFICATION

SUBSCRIBED AND SWORN TO before me on the _____day of _____, 20___, by _____, Applicant for Claim of Exemption.

(SEAL)

_____
Notary Public

My Commission Expires: _____

TAOS COUNTY CLERK
RECORDER
SEAL
TAOS