

Filed For Record 5-20-97 at 2:49 PM Barbara Castillo, Recorder

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### ORDINANCE REGULATING THE SUBDIVISION OF LAND

ORDINANCE NO: 1997-6

WHEREAS, the Laws of the State of New Mexico of 1978, Chapter 47, Article 6 NMSA "New Mexico Subdivision Act" requires the County Commissioners of each County to adopt regulations concerning the subdivision of land; and

WHEREAS, pursuant to such law proper notice was given and a public hearings were, held by the Colfax County Commission on April 4, 1997 and April 8, 1997 in order to consider guidelines for such regulations suggested by the NM State Engineer, NM Environment Department, NM State Highway, Soil and Water Conservation District, NM Historical Preservation Division, and the Attorney General of NM; and

WHEREAS, at such public hearings comments and suggestions concerning the proposed regulations were provided by the members of the Colfax County Commission and members of the public; and

WHEREAS, the Colfax County Commissioners have participated in the hearing above and reviewed the materials submitted at such hearings and existing regulations concerning subdivisions and have further considered their experience in the administration of County Government and factors concerning the specific needs and conditions of Colfax County, and have given due weight to the orderly and economic development of Colfax County and environmental factor related thereto, and having considered and adopted standards as required by the NM Subdivision Act, and on the basis of such considerations have agreed upon the form and content of the regulations attached.

SEVERABILITY: If any section, subsection, paragraph, sentence, clause, phrase, provision, or part or portion of any section, subsection, paragraph, sentence, clause, phrase or provision of this ordinance is, for any reason, held to be unconstitutional, invalid, or void, the remaining portions shall not be affected, since it is the express intent of the Colfax County Commissioners to pass each section, subsection, paragraph, sentence, clause, phrase or provision and every part thereof separately and independently of every other part.

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NOW, THEREFORE, by virtue of the power vested in us as duly elected members of the Board of County Commissioners of Colfax County, New Mexico, under the Laws of the State of New Mexico, we do hereby approve, ratify, and adopt and promulgate these attached regulations as "Subdivision Regulations if Colfax County, NM" and authorizes and direct the Colfax County Clerk to file, record and publish such regulations as required by law.

DONE in open meeting this 20th day of May, 1997.

BOARD OF COUNTY COMMISSIONERS  
COLFAX COUNTY, NM

Joe M. Gallegos  
JOE M. GALLEGOS, CHAIRMAN

Marietta G. Shell  
MARIETTA G. SHELL, VICE-CHAIRMAN

Frank Cimino Jr.  
FRANK CIMINO JR., MEMBER

ATTEST:

Barbara Castillo  
BARBARA CASTILLO - CLERK OF THE BOARD

RESOLUTION NO. 1997-22A RESOLUTION ESTABLISHING A SCHEDULE OF FEES PERTAINING TO  
COLFAX COUNTY SUBDIVISIONS

WHEREAS, pursuant to the New Mexico Subdivision Act, §47-6-1 et seq., N.M.S.A. 1978, the Board of County Commissioners of Colfax County, New Mexico has adopted regulations establishing requirements for subdivisions within Colfax County; and

WHEREAS, in order to defray the cost to the county for determining compliance with the New Mexico Subdivision Act and County Regulations while passing upon subdivision plats Colfax County is authorized to establish reasonable fees;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF COLFAX COUNTY, NEW MEXICO that the following schedule of non-refundable fees be and the same are hereby adopted, until further resolution by the County, to-wit:

- |  |          |
|--|----------|
| (1) Copy of Regulations  | \$ 27.00 |
| (2) Application Forms  | .35/page |
| (3) A basic fee of \$600.00 plus \$20.00 per lot for Types 1 through 5 |          |
| (4) A basic fee of \$200.00 For Summary Review Process                 |          |
| (5) Claims of Exemption  | \$100.00 |
| (6) Vacation of Plats  | \$100.00 |

The aforesaid fees shall be paid in full, prior to approval and filing of any final plat.

This Resolution was adopted by a majority vote of the Board of County Commissioners of Colfax County, New Mexico, on the 20TH day of MAY, 1997.

BOARD OF COUNTY COMMISSIONERS  
COLFAX COUNTY, NEW MEXICO

Joe M. Gallegos  
JOE M. GALLEGOS - CHAIRMAN

Marietta G. Shell  
MARIETTA G. SHELL - VICE CHAIRMAN

Frank Cimino Jr.  
FRANK CIMINO JR. - MEMBER

ATTEST:



Barbara Castillo  
BARBARA CASTILLO - CLERK OF THE BOARD



COLFAX COUNTY SUBDIVISION REGULATIONS  
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## ARTICLE 1. GENERAL PROVISIONS

### Section 1. Title

This ordinance shall be known and may be cited as the "County Subdivision Regulations" and shall be referred to elsewhere herein as "these Regulations."

### Section 2. Authority

These Regulations are created pursuant to the enabling authority set forth in 47-6-1 et seq. NMSA 1978; 4-37-1 et seq. NMSA 1978; and 3-20-5, 3-20-6, and 3-20-9 NMSA 1978.

### Section 3. Purpose

These Regulations are adopted for the following purposes:

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

### Section 4. Jurisdiction

These Regulations shall govern all subdivision of land within the County but not within the boundaries of municipalities. The County and a municipality shall exercise concurrent jurisdiction over the territory within the platting jurisdiction of both the County and the municipality.

### Section 5. Written Decisions

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

### Section 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.

## ARTICLE 2. DEFINITIONS

**access** subdivision must have dedicated public egress/ingress that joins a dedicated public road and secure a permit to join any state or federal highway.

**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 1) contiguous to or part of the same area of land or 2) is known, designated or advertised as a common unit or by a common name

**contiguous** Refers to adjacent parcels sharing a boundary line or separated only by a road, right-of-way or easement

**disclosure statement** Statement required to be given to persons acquiring an interest in subdivided land; this statement complies with the requirement of 47-6-17 NMSA 1978.

**exemption** certain activities as defined under the 'subdivision' definition may be exempted if formally requested on the form provided

**final plat** Map, chart, survey, plat, or replat, certified by a licensed, registered land surveyor, which contains a description of the subdivided land with ties to permanent monuments prepared in a form suitable for filing record

**immediate family member** Husband, wife, father, stepfather, mother, stepmother, brother, step-brother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew and niece, whether related by natural birth or adoption

**lease** To lease or offer to lease land

**open/public use space** Land set aside within the subdivision for public use such as, trails, stream beds, flood plains, crude camping sites, etc.

**parcel** Unit of land capable of being described by location and boundaries and not dedicated for public or common use

**person** Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity

**preliminary plat** Map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it; the map need not be based upon an accurate and detailed survey of the land

**resubdivision** Any change to a lot line, right-of-way line, or utility easement, unless the change is the result of a vacation of plats or a variance granted by action of the Board of County Commissioners.

**sell** To sell or offer to sell land

**subdivide** To divide a surface area of land into a subdivision

**subdivider** Any person/agent who creates or who has created a subdivision, individually or as part of a common promotional plan, or any person 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** 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] 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 NMSA1978, for the preceding three (3) years;
- 2] sale or lease of apartments, offices, stores or similar space within a building;

- 3] division of land within the boundaries of a municipality;
- 4] division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;
- 5] division of land created by court order where the order creates no more than one parcel per party;
- 6] division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities;
- 7] 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] division of land to create burial plots in a cemetery;
- 9] 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] 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] sale, lease, or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres;
- 12] 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 which 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] 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; 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.

**terrain management** Control of floods, drainage and erosion, and measures necessary to adapt proposed development 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;

**Type One** subdivision Any subdivision containing five hundred (500) or more parcels, anyone of which is less than ten (10) acres in size;

**Type Two** subdivision Any subdivision containing twenty-five (25) or more, 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) parcels any one of which is less than ten (10) acres in size;

**Type Four** subdivision Any subdivision containing twenty-five (25) or more parcels, each of which is ten acres (10) or more in size; and

**Type Five** subdivision Any subdivision containing not more than twenty-four (24) parcels, 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	2 to 24	less than 10 acres
Four	25 or more	10 acres or more
Five	2 to 24	10 acres or more

**vacation** Act of rescinding (canceling) all or part of a recorded subdivision plat, including legal deductions and grants of easements

**ARTICLE 3. PREAPPLICATION PROCESS**

**Section 1. Preapplication Procedure**

1.1 Conference. For the purpose of expediting applications and reducing subdivision design and development costs, a subdivider shall schedule an informal preapplication conference in accordance with the requirements provided herein. The preapplication conference is intended to provide general advice to the subdivider about the procedures and data requirements for subdivision review and approval in the County.

1.2 Summary procedure conference. All proposed subdivisions which qualify for approval under the summary procedure provided in Article Six of these Regulations shall begin with a preapplication conference.

1.3 Scheduling. The subdivider shall request a preapplication conference with the County Manager or Review Committee who will schedule a preapplication

conference in order for the subdivider to become acquainted with the necessary requirements for subdivision review and approval.

1.4 Fee No fee shall be required for a preapplication conference.

1.5 Statements non binding. Neither the subdivider nor the County shall be bound by any statements or determinations made during the preapplication conference.

1.6 Application/forms. At the request of the subdivider, the County Manager 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.

Fees for these items will be at the rate currently in effect. Any member of the public that requests copies of materials, will be charged a fee for any and all copies.

## Section 2. Preapplication Data Requirements

2.1 Sketch plan. A sketch plan shall be prepared by the subdivider which shows the proposed layout of streets, 5% dedicated open/public use space, and lots, with estimated dimensions and other relevant site information. The location of the proposed subdivision must be adequately described on a general map of the area.

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

- a. name and mailing address of the subdivider and designated agent, if any;
- b. name of owner or owners of land to be subdivided;
- c. a written description of the proposed subdivision;
- d. a description of surrounding land uses; and
- e. accessibility of site to roads and utilities; and
- f. a brief description of environmental impacts

## ARTICLE 4. PRELIMINARY PLAT REVIEW PROCESS

### Section 1. Preliminary Plat Submittal

1.1 Preliminary plat required. Fifteen [15] copies of the Preliminary plats shall be submitted for Type One, Type Two, Type Three, and Type Four subdivisions. Certain Type Three and all Type Five subdivisions are subject to review under the summary procedure set forth in Article Six of these Regulations.

1.2 Application/fees. A subdivider shall prepare a preliminary plat and supporting documentation in accordance with the requirements provided in these Regulations. Preliminary plat submittal is initiated by completing an application on a prescribed form available from the County Manager, and upon payment of the required administrative fees.

1.3 Plat deemed complete. On receipt of the application, fees, preliminary plat, and supporting documentation, the County Manager or Review Committee shall review all materials in order to determine if the preliminary plat is ready to begin the review process. If there are no deficiencies, the preliminary plat is deemed complete for review by written notice to the subdivider within thirty (30) days after the date of



application. If the preliminary plat is incomplete or does not comply with the submittal requirements provided herein, the subdivider shall be notified and be given a maximum time period of sixty (60) days to correct the deficiencies and return the preliminary plat for consideration. If not met, the process will be stopped, and the subdivider will have to start over, including the payment of any and all fees.

## Section 2. Agency Review

2.1 Plat transmittals. Within ten (10) days after the date that the preliminary plat is deemed complete, the County Manager shall forward a copy of the preliminary plat and supporting documentation to the following state and local agencies by certified mail "return receipt requested" with a request for review and opinions:

New Mexico State Engineer Office; New Mexico Environment Department; New Mexico Highway and Transportation Department; Soil and Water Conservation District in which the proposed subdivision is

located; and any other public agencies the County considers necessary to determine whether there are adequate facilities to accommodate the proposed subdivision.

(e.g., fire district, school district, special purpose district or authority, Office of Cultural Affairs, solid waste authorities, water districts and acequia associations, irrigation districts, conservancy districts.) These agencies will be disclosed to the subdivider at the preapplication conference.

2.2 Agency response. The state and local agencies shall have forty (40) days from their receipt of the preliminary plat to review and return an opinion regarding the preliminary plat. The County Manager shall obtain receipts or other proof showing the date the opinion request was received by each state or local agency.

2.3 Hearing deadlines. If the opinions received from all agencies are favorable, the County shall schedule a public hearing for consideration and action on the preliminary plat within forty (40) days following the receipt of such favorable opinions. If the County does not receive a requested opinion within the specified forty (40) days, it shall proceed with the public hearing.

2.4 Adverse opinion. If any opinion from a public agency is adverse, the opinion shall detail each and every deficiency noted and provide for remedying the deficiency if available, the County Manager shall forward a copy of the adverse opinion to the subdivider and request that additional information be provided to the County within forty (40) days to respond to the concerns of the appropriate agency. The County Manager shall forward such additional information upon receipt to the appropriate agency which shall have forty (40) days after the date the subdivider submits the additional information in order to revise its opinion. The County Manager shall obtain receipts or other proof showing the date the additional information was received by each state or local agency.

2.5 Revised opinion. The County shall schedule a public hearing for consideration and action within forty (40) days after the receipt of a revised opinion from the appropriate agency. If the County does not receive a revised opinion within the

specified forty (40) days after the date the subdivider submits the additional information, it shall proceed with the required public hearing.

### Section 3. Public Hearings on Preliminary Plats

3.1 Scheduling. The County shall conduct a public hearing after receipt of all requested opinions, either favorable or revised, within the time periods specified in these Regulations. Notice of the public hearing shall be given at least twenty-one (21) days before the hearing date.

3.2 Notice. The notice of public hearing shall be published in the a newspaper of general circulation in the County and shall contain the following information: subject of the hearing; time and place of the hearing; manner for interested persons to present their views; and place and manner for interested persons to get copies of any favorable or adverse opinion and of the subdivider's proposal.

3.3 Notification. Copies of the notice of public hearing shall be transmitted to the following: the subdivider filing the application for preliminary plat approval; those public agencies which initially received copies of the preliminary plat and supporting documentation with a request for opinion; any interested person who previously requested such notice and provided a stamped, self-addressed envelope for such purpose; and owners of property contiguous to land proposed to be subdivided.

3.4 Participation/record. At the public hearing, the County shall allow all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing, and to examine witnesses testifying at the hearing. A record of the public hearing shall be in writing. The opinions of the public agencies shall be made a part of the record. Copies of the record are available at the fee currently in effect.

3.5 Action. Within forty(40) days after the public hearing, the Board of County Commissioners shall approve, approve with conditions, or disapprove the preliminary plat at a public meeting, the date, time, and place of which shall be announced publicly at the conclusion of the public hearing. The County Manager shall inform the subdivider in writing of the decision of the Board of County Commissioners.

3.6 Approval. Approval of a preliminary plat shall constitute approval of the proposed subdivision design and layout submitted on the preliminary plat, and shall be used as a guide in the preparation of the final plat. The preliminary and final plats should state "Final approval of the public roads does not constitute approval or acceptance by the county for county maintenance."

### Section 4. Expiration of Preliminary Plat

4.1 Expiration. An approved or conditionally approved preliminary plat shall expire twenty-four (24) months after its approval or conditional approval. Upon request by the subdivider, an additional period of no more than twenty-four (24) months may be added to the expiration date by the Board of County Commissioners.

4.2 Phased development. If the preliminary plat was approved for phased development, 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 after the date of the filing of each final plat. The number of phased final plats shall be determined by the Board of County Commissioners at the time of the approval of the preliminary plat. Colfax County will limit the number of phases depending on the application but will not allow more than three [3] phases and no more than thirty-six [36] months for completion of all phases. The county will not approve a phased approach if:

- a. Development is fewer than ten [10] acres or fewer than ten [10] lots.
- b. The Board of Commissioners determines it not to be in the best interest of the county or its residents.

4.3 Extension. Before the expiration date of the approved or conditionally approved preliminary plat, the subdivider may submit to the Board of County Commissioners an application for extension of the preliminary plat for a period of time not exceeding thirty-six (36) months.

4.4 Expiration effect. The expiration of the approved or conditionally approved preliminary plat shall terminate all proceedings on the subdivision, and no final plat shall be filed without first processing a new preliminary plat.

#### Section 5. Preliminary Plat Data Requirements

5.1 Purpose. At a minimum, the supporting documentation required for the preliminary plat review is intended to provide sufficient information for the County to determine that: water is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses; water is of an acceptable quality for human consumption and measures are taken to protect the water supply from contamination; there is a means of liquid waste disposal for the subdivision; there is a means of solid waste disposal for the subdivision; there are satisfactory roads to each parcel, including entry and exit for emergency vehicles, and there are appropriate utility easements to each parcel; terrain management protects against flooding, inadequate drainage and erosion; there are protections for cultural properties, archaeological sites and unmarked burials that may be directly affected by the subdivision, as required by the Cultural Properties Act; there are no significant adverse effects on the environment; the subdivider can fulfill the proposals contained in the disclosure statement for the subdivision; and the subdivision will conform with the New Mexico Subdivision Act and these Regulations.

5.2 Minimum documentation. Supporting documentation, as a minimum, shall include: water supply plan including conservation, water quality, and fire protection components; liquid waste disposal plan; solid waste disposal plan; accessibility of site to roads and utilities; terrain management plan; an environmental impact statement; and cultural properties protection.

5.3 Filing specifications. The subdivider shall submit Fifteen [15] copies of the preliminary plat and supporting documentation for local review and distribution to public agencies. Preliminary 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 than eighteen by twenty-four (18 x 24) inches. Sheets shall be numbered in sequence if more than one sheet is used.

5.4 Map specifications. The preliminary plat map shall show the following: title, scale, north arrow, and date; existing topography and any regrading plans, indicating contour intervals sufficient for planning purposes; existing and proposed boundary lines, in bearings and distances, for the subdivision; proposed lot lines, with lot and block numbers, and approximate acreage of each lot; the location, dimensions, and purpose of existing and proposed easements; names and right-of-way widths of existing and proposed streets or roads on and adjacent to the subdivision; existing and proposed utilities on and adjacent to the site; locations, dimensions, and purpose of any land to be dedicated to the public use, including any improvements to be made to that land; location of subdivision in relation to well-known landmarks; location of archaeological, historical, or culturally significant features on the site; delineation, if applicable, of any 100-year flood plain as designated by the Federal Emergency Management Agency; names and addresses of the owner or owners of land to be subdivided, the subdivider, if other than the owner, and the land surveyor; legal description indicating the range, township, and section to include a metes and bounds description within which the subdivision is located.

5.5 Phased subdivisions. Subdivisions which are proposed to be phased and filed in multiple final plats shall include a phasing schedule for the final plats and a schedule of improvements.

5.6 Disclosure statement. The preliminary plat shall be accompanied by a draft disclosure statement in accordance with the standardized format provided in Appendix C of these Regulations. A disclosure statement shall be required for all subdivisions. The purpose of the disclosure statement is 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. Disclosure must state how improvements will be accomplished by the subdivider [eg. a trust has been set up, etc.]. Disclosure must state whether a Protective covenant is in effect. The disclosure must state "Final approval of the public roads does not constitute approval or acceptance by the county for county maintenance..".

## ARTICLE 5. FINAL PLAT REVIEW PROCESS

### Section 1. Final Plat Submittal

1.1 Conformity. Following approval of a preliminary plat, and before the expiration of the plat, the subdivider shall prepare a final plat in substantial conformity with the approved preliminary plat. Subdivisions proposed to be phased in multiple final plats shall be submitted as indicated on the phasing schedule submitted with the preliminary plat.

1.2 Plat deemed complete. A subdivider shall prepare a final plat [with five [5] copies]



and supporting documentation in accordance with the requirements provided in these Regulations. Final plat submittal is initiated by completing an application on a prescribed form available from the County Manager or Review Committee, who shall review all materials in order to determine whether the final plat is complete. If there are no deficiencies, the final plat will be deemed complete for review by written notice to the subdivider within forty(40) days after the date of application. If the final plat is incomplete or does not comply with the submittal requirements provided herein, the subdivider shall be notified and will be given a maximum time period of forty (40) days to correct the deficiencies and return the final plat for consideration.

#### Section 2. Decision on Final Plat

2.1. Action. Final plats submitted to the County for approval shall be approved or disapproved by the Board of County Commissioners at a public meeting within forty (40) days after the date the final plat is deemed complete.

2.2. 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.

2.3. Improvement agreement. If, at the time of approval of the final plat, any public improvements have not been completed by the subdivider as required by these Regulations, the Board of County Commissioners shall, as a condition preceding approval of the final plat, require the subdivider to enter into an agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the subdivider's expense. An improvement agreement shall not be entered with a term for completion of improvements longer than one year.

2.4. 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 forty (40) 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.

#### Section 3. Final Plat Data Requirement

3.1 Filing specifications. The original drawing of the final plat shall be submitted in waterproof ink on mylar or acetate or other durable material suitable for reproducing copies. Final 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 eighteen by twenty-four (18 x 24) inches inches. When more than one sheet is used to include the entire subdivision, all sheets

shall be cut to the same size and shall show appropriate references to other sheets of the subdivision. The subdivider shall also submit ten [10] paper copies of the final plat map and accompanying information.

3.2 Map specifications. The final plat map shall include the following information: name of subdivision, scale, north arrow, and date; permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred; tract boundary lines, easement and right-of-way lines, the manner the roads in the subdivision join or connect with existing public or private roads or with proposed public or private roads, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves; accurate description of legal access to, roads to, and utility easements for each parcel, and if the access or easement is based upon an agreement, the recording data in the land records for the agreement; name, right-of-way width, and centerline data of each road or other right-of-way; location, dimensions, and purpose of all easements and dedicated public sites; number of each parcel in progression, with its dimensions, and the dimensions of all land dedicated for public use or for the use of the owners of parcels fronting on or contiguous to the land; names of owners of contiguous unplatted land; delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency; the names of the owner or owners of the subdivision, and the developer if other than the owner; the certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey; and legal description indicating the range, township, and section and a metes and bounds description within which the subdivision is located.

3.3 Affidavit. The final plat shall contain a statement that the land being subdivided is subdivided in accordance with the final plat. The affidavit should state "Final approval of the plat by the county shall not constitute inclusion of the subdivision roads on the county's road maintenance schedules or lists." 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 the owner and subdivider, or authorized agents, stating whether or not the proposed subdivision lies within the subdivision regulation jurisdiction of the County. A copy of the final plat shall be provided to every purchaser, lessee, or other person acquiring an interest in the subdivided land before sale, lease, or other conveyance.

3.4. Dedication. The final plat shall contain a certificate stating that the Board of County Commissioners has accepted, accepted subject to improvement, or rejected, on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication. On full conformity with County road construction standards, the roads may or may not be accepted for maintenance by the County. 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 is filed in that office.

3.5. Disclosure statement. For all subdivisions, a disclosure statement shall be

prepared in accordance with the standardized format provided in Appendix C 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 completed disclosure statement.

3.6. Conformity. The Board of County Commissioners shall not approve the plat of any subdivision if the subdivider cannot reasonably demonstrate that he can fulfill the proposals contained in his disclosure statement or if the subdivider has not conformed with the New Mexico Subdivision Act and the County's subdivision ordinance.

3.7. Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit the approved statement of record in lieu of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not covered in the subdivider's statement of record shall be attached to the statement of record.

3.8. New Mexico Environment Department approval. For any subdivision requiring construction of a public water supply system or a community system, liquid waste system documentation of approval from the New Mexico Environment Department shall be required for final plat approval. The plat may be approved contingent upon receiving the necessary approval from the New Mexico Environment Department and verified to Commission

3.9. Recording. The final plat is in full force and effect only after having been recorded in the office of the County Clerk within one (1) year after the date of approval by the Board of County Commissioners.

3.10. Water permit. For all subdivisions containing twenty (20) or more parcels, any one of which is two (2) acres or less in size, the subdivider shall provide a copy of the water permit issued by the State Engineer for subdivision water use. The Board of County Commissioners shall not approve the final plat unless the State Engineer has issued a water permit for the subdivision water use.

#### Section 4. Advertising Standards

4.1. 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.

4.2. Requirements/restrictions. Brochures, disclosure statements, publications, and advertising of any form relating to subdivided land shall: not misrepresent or contain false or misleading statements of fact; not describe deeds, title insurance, or other items included in a transaction as

"free" and shall not state that any parcel is "free" or given as an "award" or "prize" if any consideration is required for any reason; not describe parcels available for "closing costs only" or similar terms unless all

such costs are accurately and completely itemized; or when additional parcels must be purchased at a higher price; not include an asterisk or other reference symbol as a means of contradicting or substantially changing any statement; 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; 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; not contain references to any facilities, schools, hospitals, etc., points of interest or municipalities located outside the subdivision unless the distances from the subdivision are stated in the advertisement in accurate road miles; and refer to the location where the subdivider's disclosure statement may be obtained.

#### Section 5. Requirements Prior to Sale, Lease or Other Conveyance

It is unlawful to sell, lease, or otherwise convey land within a subdivision before the following conditions have been met:

5.1. Final plat approval. The final plat shall be approved by the Board of County Commissioners and shall be filed with the clerk of the county in which the subdivision is located. If a subdivision also lies within a neighboring 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.

5.2. 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.

5.3. Permanent marks. All corners of all parcels and blocks within a subdivision shall be permanently marked with metal stakes in the ground and a reference stake placed beside one corner of each parcel.

#### Section 6. Recording Parcels

6.1. Authority 47-6-9(A)(17) NMSA 1978 requires counties to enact regulations for recording all conveyances of parcels with the County Clerk. As defined in the Act, the term "parcel" means "land capable of being described by location and boundaries and not dedicated for public or common use.

6.2. 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.

6.3. Requirement. Any person who sells or 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, 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.

6.4. 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.

6.5. 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 by metes and bounds or a lot and block description, the means of access to the parcel, and any easements to which the parcel is subject. The statute may or may not require a plat attachment.

## ARTICLE 6. SUMMARY REVIEW PROCESS

Section 1. Summary Review Procedure. The following types of subdivisions shall be submitted to the County and the New Mexico Environment Department for consideration under summary review procedure: Type Three subdivisions containing four (4) or fewer parcels of land, unless the land within a subdivision has been previously identified in the County Comprehensive Plan or County Zoning Ordinance as an area subject to unique circumstances or conditions that require additional review; and all Type Five subdivisions. 47-6-11.1 allows more stringent review if the smallest parcel is less than three acres in size.

1.1. Conference required. A preapplication conference is required before application for summary review and approval. The preapplication process is described in Article Three of these Regulations.

1.2. 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. Summary review plat submittal is initiated by completing an application on a prescribed form obtainable from the County Manager, and upon payment of the required administrative fees.

1.3. Plat deemed complete. On receipt of the application, fees, summary review plat, and supporting documentation, the County Manager and/or Review Committee shall review all materials in order to determine if the preliminary plat is ready to begin the review process. If there are no deficiencies, the summary review plat will be deemed complete for review by written notice to the subdivider within forty (40) days after the date of application. If the summary review plat is incomplete or does not comply with

the submittal requirements, the subdivider shall be notified and given a maximum time period of forty (40) days to correct the deficiencies and return the summary review plat for consideration.

1.4. Public meeting. Summary review plats submitted to the County for approval shall be approved or disapproved by the County Commission at a public meeting within forty (40) days of the date the summary review plat is deemed complete.

1.5. Improvement agreement. If, at the time of approval of the summary review plat, any public improvements have not been completed by the subdivider as required by these Regulations, the Board of County Commissioners may, as a condition preceding approval of the summary review plat require the subdivider to enter into an agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the subdivider's expense.

1.6. Failure to act. If the County Commission does not act upon a summary review plat within the required period of time, the subdivider shall give the Board of County Commissioners written notice of the County's failure to act. If the Board of County Commissioners fails to approve or reject the summary review plat within forty (40) days after such notice, the Board of County Commissioners shall, upon demand by the subdivider, issue a certificate that the summary review plat has been approved.

## Section 2. Summary Review Data Requirements

2.1. 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 eighteen by twenty four (18x24) inches. The subdivider shall also submit ten [10] paper copies of the summary review plat map and accompanying information.

2.2. Map specifications. The summary review plat map shall include the following information: title, scale, north arrow, and date; name and mailing address of subdivider and designated agent, if any; names of owners of land to be subdivided and of contiguous property; subdivision boundary lines, easement and right-of-way lines, names of any public dedicated roads and property lines of all lots, with accurate dimensions, and ties to monuments; acreage measurements and identification numbers for each lot; location, dimensions, and purpose of all easements; delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency; the certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey; and legal description indicating the range, township, and section and a metes and bounds description within which the subdivision is located.

2.3. 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 acknowledgment 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. A copy of the summary review plat shall be provided to every purchaser, lessee, or other person acquiring an interest in the subdivided land prior to sale, lease or other conveyance.

2.4. Dedication. The summary review plat shall contain a certificate stating that the Board of County Commissioners has accepted, accepted subject to improvement, accepted subject to limitation or condition, or rejected, on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication. Upon full conformity with County road construction standards, the roads may or may not be accepted for maintenance by the County. Acceptance of offers of dedication on a summary review plat shall not be effective until the summary review plat is filed in the office of the County Clerk or a resolution of acceptance by the Board of County Commissioners is filed in that office.

2.5. Disclosure statement. For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format provided in Appendix C 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(Subdivider is responsible); and the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement.

2.6. Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit the approved statement of record in lieu of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not covered in the subdivider's statement of record shall be attached to the statement of record.

2.7. Advertising standards. The advertising standards covering the sale, lease, or other conveyance of subdivided land provided in Article Five/Section 4 of these Regulations shall be applicable to summary review plats.

## ARTICLE 7. SPECIAL PROCEDURES

Section 1. Succeeding Subdivisions Any proposed subdivision may be combined with a previous subdivision and upgraded for classification purposes by the Board of County Commissioners if the proposed subdivision includes:

- A part of a previous subdivision that has been created in the preceding twenty (20) year period; or
- Any land retained by a subdivider after creating a previous subdivision if the previous subdivision was created in the preceding twenty (20) year period.

## Section 2. Resubdivision

All or a portion of any final plat filed in the office of the County Clerk may be

resubdivided to no less than 3/4 acres by the same procedures prescribed in these Regulations for the subdivision of land. Resubdivision shall include any change to a lot line, right-of-way line, or utility easement, unless the change is the result of a vacation of plats or a variance granted by action of the Board of County Commissioners.

### Section 3. Vacation of Plats

Any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if: the owners of the land proposed to be vacated sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board of County Commissioners; or 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.

3.1. Statement of vacation. The vacation of all or a portion of a final plat shall be initiated by submittal of application for abandonment or vacation to the County Manager Office, along with the names and addresses 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.

3.2. 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: Action shall be taken at a public meeting. At least fifteen (15) days before the proposed meeting, 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 mail of the proposed vacation and the date, time and place of the public meeting at which the vacation will be considered by the Board of County Commissioners. Relevant utilities and other agencies have been notified.

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 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.

3.3. 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.

3.4. 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 4. Variances

4.1. Planned Development Area. The County Commission 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, which, in the judgment of the County Commission 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.

4.2 Conditions and limitations. A variance shall not be granted which will cause the County to absorb costs over and above those typically associated with subdivision approval. In granting variances, the County Commission may require such conditions that will: show an undue hardship related to nature of the land and show that the granting of a variance will not undermine the public health, safety and welfare objectives of the regulations.

4.3 Procedures. The following procedures and requirements shall apply to all requests for variances under these Regulations. Requests for variances shall be submitted in writing at the time of request for preliminary plat approval on a form provided by the County Manager for that purpose, and upon payment of the required administrative fee. Variance requests shall be reviewed by the County Commission in public hearings at the same time public hearings are held for approval of the preliminary plat. 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 comply with the requirements of the Open Meetings Act of the State of New Mexico. Variance requests shall be submitted to the state or other reviewing agency having expertise with respect to the subject matter for which the variance is sought, and shall be governed by the same time limits. The County Commission shall make written findings of fact regarding each of the requirements of these Regulations and shall produce those findings of facts as a portion of its decision and order on each request for variance. The decision and order shall be prepared, signed and filed within fifteen (15) working days after the public hearing at which the variance is considered.

#### Section 5. Amendment

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, and in accordance with 47-6-1 et seq. NMSA 1978 compilation as amended.

#### Section 6. Exemptions

6.1 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. See Appendix D and subdivision definitions for possible exemptions.

#### 6.2 Verification of Exemption.

Any person claiming entitlement to an exemption under the provisions of these Regulations shall file a written claim of exemption on the form prescribed in Appendix D.1 of these Regulations with the County Manager before making the land division for which the claim of exemption is made. The County Commission shall review the claim of exemption and supporting documents and shall mail written notice of whether the 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 to the County Manager. If the claim of exemption is approved, or if the County Commission fails to mail written notice to the claimant within thirty (30) days after 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 without complying with the provisions of these Regulations. If the claim of exemption is denied, the person claiming the exemption may appeal the denial as provided in Article 10 of these Regulations or may submit an application for a subdivision as provided in these Regulations.

### Section 7. Protection of Cultural Properties, Archaeological Sites, and Unmarked Burials

7.1. Unmarked Human Burials According to state policy, any human burial in the state in any unmarked burial ground is accorded the protection of law and shall receive appropriate and respectful treatment and disposition. All subdividers (to include summary subdividers) shall comply with the requirements of 18-6-11.2 NMSA 1978, which prohibits the knowing, willful and intentional excavation, removal, disturbance or destruction of any human burial, buried, entombed or sepulchered in any unmarked burial ground except by authority of a permit issued by the state medical investigator or by the state cultural properties review committee with the concurrence of the state archaeologist and state historic preservation officer. Any and all construction on the site shall cease immediately upon discovery of any human burial and shall not commence again until the full requirements of the state law have been fulfilled.

7.2 Registered Cultural Properties. Any person desiring to subdivide land in the County shall comply with the Cultural Properties Act 18-6-1 through 18-6-17 NMSA 1978.

## ARTICLE 8. REQUIRED IMPROVEMENTS

### Section 1. Construction of Required Improvements

1.1. Improvement requirements. The subdivider shall install and construct such improvements, if any, as are required by these Regulations in the manner and to the design standards provided in these Regulations. Approval of the preliminary plat is authorization for the subdivider to proceed with the minimum improvements required by these Regulations. 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 Commission and, if in accordance with these Regulations, shall be approved by the County, allowing the subdivision development to proceed.

1.2 Improvement agreement. The County may enter into a subdivision improvement agreement with a subdivider. This agreement shall constitute a binding contract between the subdivider and the County and shall contain those terms and conditions agreed to by the subdivider and the County.

### Section 2. Road Development

2.1. Construction schedule. Roads within a subdivision shall be constructed only on a schedule reviewed by the Review Committee and approved by the Board of County Commissioners. In approving or disapproving a subdivider's road construction schedule, the Board of County Commissioners shall consider: the proposed use of the subdivision; the period of time before the roads will receive substantial use; the period of time before construction of homes will begin on the portion of the subdivision serviced by the road; the county regulations governing phased development; and the needs of prospective purchasers, lessees and other persons acquiring an interest in subdivided land in viewing the land within the subdivision.

2.2. Safety. All proposed roads shall conform to minimum County safety and construction standards as amended from time to time. See appendix "J" for specifics.

2.3. Demonstration of use/access. 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 necessary to provide access to parcels or improvements within twenty-four (24) months after the date of construction of the road. It is unlawful for the subdivider to grade or otherwise commence construction of roads unless the construction conforms to the schedule of road development approved by the Board of County Commissioners. The subdivider must provide a 60 foot dedicated access to said subdivision from public roads and should be constructed to County standards.

2.4. Road Naming, addressing and signage. The subdivider shall name each road on the plat and install prominent signs at the intersection or beginning of all roads. The subdivider shall install addresses as per the County's Rural addressing policy as each lot is sold and its entry way is identified by the new owner. As this is

accomplished, The subdivider will notify the Rural Addressing office, so records and maps can be updated. The subdivider shall also identify on the plat the location of highway safety signs and install these signs as per the plat.

### Section 3. Improvement Guarantees

3.1. Assurance. In order for the County to be assured of the completion of required improvements, the subdivider shall agree to either: complete installation of the required improvements before approval of the final plat; or assure construction of required improvements after final plat approval.

3.2. Alternatives. If the subdivider wishes to submit the final plat for review, approval, and recording before completion of required improvements, the subdivider shall post a realistic estimate of cost for improvements guarantee in a amount approved by the County. The guarantee shall be not less than 125 percent of the estimated cost of the required improvement. This guarantee may be by bond, letter of credit, escrow deposit, or other method acceptable to the County.

ARTICLE 9. ADMINISTRATIVE FEES Any person desiring to subdivide land in the County shall pay the administrative fees set by the Board of County Commissioners by Resolution for any and all items: Examples: *The subdivision regulations, Preliminary plat, Summary review plat, Variance, Appeal, Claim of exemption, Statement of vacation, etc.*

## ARTICLE 10. APPEALS

### Section 1. Who May Appeal

1.1. County Manager - Review Committee: Any person who is adversely affected by a decision of the County Manager or Review Committee in approving or disapproving a subdivision plat may appeal to the Board of County Commissioners within fifteen (15) days after the date of the action of the Manager or Review Committee. The Board of County Commissioners shall hear the appeal and render a decision within forty (40) days after receiving the notice of appeal.

1.2 Board of County Commissioners: Any person who is adversely affected by a decision of the Board of County Commissioners in approving or disapproving a subdivision plat may appeal to the District Court of the county in which the subdivision is located within forty (40) days after the date of the action of the Board.

### Section 2. Appeal Process

2.1. The appeal shall consist of a whole record review, and the reviewing committee, whether it be the Board of County Commissioners or the District Court, shall only set aside the action of the lower tribunal if it is found to be: arbitrary, capricious or an abuse of discretion; or not supported by substantial evidence; or otherwise not in accordance with law or these regulations.



2.2. Any party to the action in District Court shall have full appellate rights in accordance with the laws of the State of New Mexico and the rules of appellate procedure for the State of New Mexico.

2.3 The appeal shall be perfected by filing a written notice of appeal which sets forth the specific portion or portions of the decision being appealed. A copy of the decision or order being appealed shall be attached to the notice of appeal.

#### ARTICLE 11. ENFORCEMENT, PENALTIES, AND REMEDIES

Section 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 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 Manager for investigation. The County Manager 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 Manager shall inform the complainant in writing of what actions have been taken or will be taken in response to the complaint.

Section 3. Penalties and Remedies. Violations of the provisions of these Regulations shall be subject to the following penalties, remedies and enforcement procedures:

3.1. Utility Connections. Any water, sewer, electric, or gas utility that connects service to individual parcels within a subdivision before a final plat for the subdivision has been approved by the Board of County Commissioners or before the landowner holds a valid building permit, may be fined a civil penalty of up to five hundred dollars (\$500) by the Board of County Commissioners. The Board of County Commissioners may also require that any utility connected in violation of this section and of 47-6-27.2 NMSA 1978 be disconnected.

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 not conveyed portions of a subdivider's plat if the subdivider does not meet the schedule of compliance approved by the Board of County Commissioners.

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

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.

3.5. Criminal Penalties 47-6-27 NMSA 1978 provides that: 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 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. 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.

ARTICLE 12. SEVERABILITY The provisions of these Regulations are severable, and if any provision, sentence clause, section, or part hereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of these Regulations or their application to other persons or circumstances. It is hereby declared to be the intent of the County that these Regulations would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included herein, and if the person or circumstances to which these Regulations or any part thereof are inapplicable had been specifically exempted therefrom.

ARTICLE 13. REPEAL AND EFFECTIVE DATE These Regulations repeal County Resolution NO. 1986-6. These Regulations shall become effective on the 20<sup>th</sup> day of May, 1997.

**DONE IN OPEN MEETING THIS 20TH DAY OF MAY, 1997.**

**BOARD OF COUNTY COMMISSIONERS,  
COLFAX COUNTY, NEW MEXICO**

  
\_\_\_\_\_  
**JOE M. GALLEGOS-CHAIRMAN**

  
\_\_\_\_\_  
**MARIETTA G. SHELL-VICECHAIRMAN**

  
\_\_\_\_\_  
**FRANK CIMINO JR. MEMBER**

  
**ATTEST:**

  
\_\_\_\_\_  
**BARBARA CASTILLO - CLERK OF THE BOARD**

**SUBDIVISION TYPES 1, 2, 3\*, 4 APPLICATION DEVELOPMENT AND APPROVAL  
[ESTIMATED AND IF DONE PROFESSIONALLY]**

TASK/MONTH	1	2	3	4	5	6	7	8	9	10
PREAPPLICATION CONFERENCE										
BOUNDARY SURVEY AND PHOTO CONTROL	XXXX									
AERIAL PHOTO & DATA BASE MAPS		XXXX								
SUBDIVISION LAYOUT & PLATS			XXXX	XXXX	XX					
DISCLOSURE STATEMENT AND PROTECTIVE COVENANTS			XXXX							
ENVIRONMENTAL			XXXX							
SOLID WASTE, LIQUID WASTE & WATER PLAN			XXXX	XXXX	XXX					
DRAINAGE & TERRAIN MANAGEMENT PLAN			XXXX	XXXX	X					
ROADWAY, CULVERT AND SIGNAGE PLAN					XXXX	XXX				
PRELIMINARY SUBMITTAL TO COUNTY COMMISSION					XX					
CORRECTIONS BASED ON INPUT FROM CC					XX	XX				
COUNTY SUBMITTAL TO STATE AGENCIES FOR COMMENTS						XXXX				
<b>FAVORABLE OPINION OF AGENCIES</b>										
PUBLIC HEARING						XXX				
COMMISSION APPROVES/CONDITIONS PRELIMINARY PLAT							X	XXX		
FINAL SUBMITTAL								X	XXX	
PUBLIC HEARING									X	
COMMISSION ACTION										XXXX
<b>UNFAVORABLE OPINION(S)</b>										
CORRECTIONS BASED ON REVIEW COMMENTS							XXXX			
ADDITIONAL INFORMATION SENT TO AGENCY(IES)								XXXX		
AGENCY REVIEW									XXXX	
PUBLIC HEARING										XXX
COMMISSION APPROVES/CONDITIONS PRELIMINARY PLAT										X
FINAL SUBMITTAL										
PUBLIC HEARING										
COMMISSION ACTION										

## APPENDIX B

### TERRAIN MANAGEMENT PLAN

1. **TERRAIN MANAGEMENT PLAN:** Any subdivider seeking approval of a preliminary or final plat must submit a Terrain Management Plan along with the required information. No preliminary or final subdivision plat shall be considered by the commission unless the Terrain Management Plan is complete and accompanies the preliminary and final plat. The commission will approve a Terrain Management Plan if it determines that :
  - A. The Terrain Management Plan realistically and adequately provides for the long range protection to the area to be subdivided. Subdividers shall develop and design all subdivisions with the provision of this ordinance and that the subdivision is developed as to conserve water resources in the area.
  - B. Minimizes erosion and deterioration of the natural features of the subdivision.
  - C. The Terrain Management Plan has been reviewed and approved by the local Soil and Water Conservation District
2. **MAPS REQUIRED:** Terrain management plans for all subdivision types shall include the following maps and information:
  - A. Vicinity map drawn to scale of not more than 2000 feet to one inch showing the relationship of the site to its general surroundings, and the location of all existing drainage channels, water and erosion control structures, water courses, and water bodies within three miles of the subdivision. This map shall display the topographic contours at 20 ft. intervals or less (a suitable example would be from a USGS topographic map).
  - B. Subdivision base map drawn at a scale which clearly shows the boundaries of the area to be subdivided and the boundaries of the lots within the subdivision.
  - C. Contour overlay of the subdivision at intervals which clearly indicate the slopes and grades. Indicate on this map all drainage channels, watercourses, and water bodies.
  - D. A soil survey overlay showing the various soil types drawn to the scale of the subdivision map. the soil survey overlay will show the location of each soil type and the principal vegetation characteristics on the subdivision including major rock outcroppings, slopes over 8 percent and wooded areas, grasslands, forests, the location of all areas the subdivider intends to revegetate and all areas where the vegetation will be preserved.

- E. A flood plains overlay indicating the floodways, flood fringes and flood plains.
- F. The above maps may be combined if quality is not affected.

### 3. SURFACE DRAINAGE PLAN:

- A. Show sufficient runoff information on the areas contributing runoff to the subdivision to show existing drainage patterns and drainage courses that may affect the subdivision or be affected by the subdivision.
  - B. Show all appropriate design details necessary to clearly explain the construction of all necessary water control structures, including location, type and size.
  - C. The subdivider shall substantially prove that all storm drainage systems shall be adequate to comply with FEMA National Flood Insurance Threshold.
  - D. Storm drainage, computations of the estimated runoff from the subdivision following completion of development, based on FEMA National Flood Insurance Thresholds.
  - E. Quantities of water carried by major drainage courses and proposed treatments of major drainage courses.
  - F. The location of major drainage and water course easements.
4. CUT AND FILL SLOPE GRADING: A general grading plan setting forth the means for stabilizing and revegetating all cut and fill slopes.
5. SOILS: The subdivider shall provide adequate information which shows the intended construction or development and land use to be appropriate to and feasible on the soils intended to be used. Soil not suitable or having a high degree of hazard for the intended use shall not be developed for the intended use unless the subdivider can substantially prove that the soil limitations can be overcome by engineering design. Soil suitability may be ascertained from the Colfax County Soil Survey engineering interpretations or from a professional soil scientist.
6. GRADING: The following discharges attributable to grading are prohibited whether the discharge is direct or indirect.
- A. Sediment and other earthen materials discharged into a water course, water body, drainage channel or flood plain.

B. Material placed in any position which would make it susceptible to erosion and deposition into a watercourse, water body, drainage channel or flood plain. All grading and filling operations shall proceed according to a schedule. The schedule shall limit to the shortest possible period the time that soil is exposed and unprotected.

7. UTILITIES: Explain the type of utilities to be provided as well as a statement indicating whether or not the utilities are to be installed above ground or underground.

8. ROADS: Include a map showing the road layout, locations culvert are to be installed, and a typical cross-section of the proposed roads.

9. LIVESTOCK: Subdividers shall take steps to fence out livestock on subdivided land.



**APPENDIX C****DISCLOSURE STATEMENTS**

All applications for subdividing a parcel of land requires a disclosure statement. This includes "Summary Review" requests.

Appendix C.1 is for Summary Review and any other application for subdividing up to four [4] lots [T type Five]. C.2 is for all other subdivisions.

These appendices are guidelines for you to meet as the disclosure is typed into its final form. Hand written or just filling in the blanks on these guidelines are not acceptable.



APPENDIX C.1 [FOR ALL SUBDIVISIONS CONTAINING UP TO FOUR PARCELS]  
THIS INCLUDES SUMMARY REVIEW SUBDIVISIONS.

DISCLOSURE STATEMENT FOR ALL SUBDIVISIONS CONTAINING NO MORE THAN FOUR PARCELS. YOU SHOULD READ THIS DISCLOSURE STATEMENT BEFORE YOU SIGN ANY DOCUMENTS OR AGREE TO ANYTHING.

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 has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. 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 you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the six (6) month period, you have three (3) days to rescind the transaction and receive all your money back from the subdivider when merchantable title is revested in the subdivider. To rescind the transaction you must give the subdivider written notice of your intent to rescind within three (3) days after the date of your inspection of the property. County regulations require that any deed, real estate contract, lease or other instrument conveying an interest in a parcel in the subdivision be recorded with the Colfax County Clerk. Building permits, waste water 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 requirements for construction of additional improvements before you occupy the property.

1.(NAME OF SUBDIVISION)

2.(NAME AND ADDRESS OF SUBDIVIDER)

(name of subdivider)

(address of subdivider)

3.(CONDITION OF TITLE)

(Include at least the following information where applicable

(number of mortgages)

(name and address of each mortgagee)

(balance owing on each mortgage)

(summary of release provisions of each mortgage)

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

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

(balance owing on each real estate contract)  
 (summary of default provisions of each real estate contract)  
 (summary of release provisions of each real estate contract)  
 (statement of any other encumbrances on the land)  
 (statement of any other conditions relevant to the state of title)

**4. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD THAT SUBJECT THE SUBDIVIDED LAND TO ANY CONDITIONS AFFECTING ITS USE OR OCCUPANCY**  
 (state here all deed and plat restrictions affecting the subdivided land)

**5. UTILITIES**

(name of entity providing electricity, if available)	(estimated cost)
(name of entity providing gas service, if available)	(estimated cost)
(name of entity providing water, if available)	(estimated cost)
(name of entity providing telephone, if available)	(estimated cost)
(name of entity providing liquid waste disposal, if available)	(estimated cost)
(name of entity providing solid waste disposal, if available)	(estimated cost)

**6. INSTALLATION OF UTILITIES**

**7. UTILITY LOCATION**

(if all utilities are to be provided to each parcel in the subdivision, please state here)  
 (if utilities are to be provided to some but not all parcels in the subdivision, state which utilities will be provided to each parcel)  
 (state whether each utility will be above ground or underground)  
 electricity  
 gas  
 water  
 telephone  
 liquid waste disposal  
 solid waste disposal

**8. WATER AVAILABILITY**

(describe the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses)  
 the availability and sources of water to meet the subdivision's maximum annual water requirements (describe the means of water delivery within the subdivision)  
 (describe any limitations and restrictions on water use in the subdivision)  
 (summarize the provisions of any covenants or other restrictions requiring the use of water saving fixtures and other water conservation measures)  
 (describe what measures, if any, will be employed to monitor or restrict water use in the subdivision)

**9. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS (if applicable)**

(name and address of entity providing water)  
 (source of water and means of delivery)  
 (summary of any legal restrictions on either indoor or outdoor usage)  
 (statement that individual wells are prohibited, if such is the case)

10. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS(if applicable)  
(state whether wells will be provided by the subdivider or by the prospective purchaser/lessee/conveyee)

(if wells are provided by purchaser/lessee/conveyee, state the estimated cost to complete a domestic well, including drilling, pressure tank, control devices, storage and treatment facilities)

(if wells are provided by the subdivider, state the cost, if any to the purchaser/lessee/conveyee)  
(summary of legal restrictions on either indoor or outdoor usage)

(average depth to ground water and the minimum and maximum well depths to be reasonably expected)

(recommended total depth of well)

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

#### 11. LIQUID WASTE DISPOSAL

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

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

#### 12. SOLID WASTE DISPOSAL

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

#### 13. TERRAIN MANAGEMENT

(describe the suitability for residential use of the soils in the subdivision as defined in the Natural Resource Conservation District's soil survey for Colfax County)

(describe any measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures)

(identify by lot and block numbers all parcels within the subdivision that are subject to flooding)

(identify by lot and block number all parcels within the subdivision located in whole or in part on slopes in excess of 8%)

(describe the surface drainage for all lots in the subdivision)

(describe the subsurface drainage for all lots in the subdivision)

(describe the nature, location and completion dates of all storm drainage systems constructed or required to be constructed in the subdivision)

#### 14. SUBDIVISION ACCESS

(name of town nearest to subdivision)

(distance from nearest town to subdivision and the route over which that distance is computed)

(describe access roads to subdivision)

(state whether or not subdivision is accessible by conventional vehicle)

(state whether or not subdivision is ordinarily accessible at all times of the year and under all weather conditions)

(describe the width and surfacing of all roads within the subdivision)

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

(if the roads within the subdivision have not been accepted for maintenance by the County, state how the roads will be maintained and describe lot owners' responsibilities and obligations with respect to road maintenance)

**15. MAINTENANCE**

(state 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 make sure that maintenance takes place)

**16. CONSTRUCTION GUARANTEES (if applicable)**

(describe any proposed roads, drainage structures, water treatment facilities or other improvements that will not be completed before parcels in the subdivision are offered for sale)

(describe all performance bonds, letters of credit or other collateral securing the completion of each proposed improvement)

UNLESS THERE IS A SUFFICIENT BOND, LETTER OF CREDIT OR OTHER ADEQUATE COLLATERAL TO SECURE THE COMPLETION OF PROPOSED IMPROVEMENTS, IT IS POSSIBLE THAT THE PROPOSED IMPROVEMENTS WILL NOT BE COMPLETED. CAUTION IS ADVISED.

**17. ADVERSE OR UNUSUAL CONDITIONS**

(state any activities or conditions adjacent to or nearby the subdivision, such as feed lots, dairies, cement plants or airports, that would subject the subdivided land to any unusual conditions affecting its use or occupancy)

**18. FIRE PROTECTION**

(distance to nearest fire station from subdivision)

(route over which that distance is computed)

(state whether the fire department is full-time or volunteer)

**19. POLICE PROTECTION**

List the various police units that patrol the subdivision.

(sheriff's department, if applicable)

(municipal police, if applicable)

(state police, if applicable)

**20. PUBLIC SCHOOLS**

(name of and distance to nearest public elementary school serving the subdivision)

(name of and distance to nearest public junior high or middle school serving the subdivision)

(name of and distance to nearest public high school serving the subdivision)

**21. Signature of Subdivider AND Notarized**

(each person representing the subdivider must sign the disclosure and have it notarized)

\_\_\_\_\_(Seal) \_\_\_\_\_(Seal)

\_\_\_\_\_(Seal) \_\_\_\_\_(Seal)

**ACKNOWLEDGMENT OR NATURAL PERSONS**

STATE OF NEW MEXICO )

) ss.