CODE OF ORDINANCES
COUNTY OF
SANDOVAL, NEW MEXICO

Published in 2013 by Order of the County Commission

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OFFICIALSof theCOUNTY OFSANDOVAL, NEW MEXICOAT THE TIME OF THIS CODIFICATION

PREFACE

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OFFICIALS
of the
COUNTY OF
SANDOVAL, NEW MEXICO
AT THE TIME OF THIS CODIFICATION

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Chair

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County Attorney

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County Clerk

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PREFACE

This Code constitutes a codification of the general and permanent ordinances of Sandoval County, New Mexico.

Source materials used in the preparation of the Code were the ordinances subsequently adopted by the county commission. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CODE	CD1:1
CODE APPENDIX	CDA:1
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STATE LAW REFERENCE TABLE	SLT:1
CODE INDEX	CDi:1

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Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Daniel F. Walker, Code Attorney, and Howard George, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Phillip Rios, County Manager, for his cooperation and assistance during the progress of the work on this publication. It is hoped that his efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the county readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the county's affairs.

Copyright

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Chapter 1 - GENERAL PROVISIONS

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Sec. 1-1. - Designation and citation of Code; references to Code; evidence.

(a) The ordinances embraced in this and the following chapters and sections shall constitute and be designated as the "Sandoval County Code of Ordinances," and may be so cited. Such ordinances may also be cited as "Sandoval County Code."

(b) Whenever a reference is made to this Code as designated in subsection (a) of this section or to any portion thereof, or to any ordinance of the county, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

(c) This Code, as presented in printed or digital form, shall be received without further proof in all courts and in all administrative tribunals of this state as the ordinances of the county of general and permanent effect, except as otherwise stated in this chapter. Any person challenging that the Code conflicts with the ordinances as adopted has the burden of proof to show such conflict.

Sec. 1-2. - Definitions.

In the construction of this Code and of all other ordinances of the county, the following rules and definitions shall be observed, unless such would be inconsistent with the manifest intent of the board of commissioners:

Agent. The term "agent" means a person acting on behalf of another.

Board, county commission. Unless explicitly stated otherwise, the term "board" or "county commission" means the board of commissioners, the governing body of the County of Sandoval, New Mexico.

Business dealing with the public. The term "business dealing with the public" means such solicitations and transactions regularly engaged in for monetary or other considerations, but does not mean isolated or casual business transactions in which the public is not invited or expected to participate and which are outside the scope of a person's regular business or operations.

Code. The terms "Code" and "this Code" mean the Sandoval County Code of Ordinances, as adopted by the commission and as subsequently amended.

Computation of time. Unless otherwise specifically provided, in computing time, the first day shall be excluded and the last included. If the last day falls on a weekend, the time prescribed shall be extended

so as to include the whole of the following Monday. If the last day falls on a holiday, the time prescribed shall be extended so as to include the whole of the next workday.

County. The term "county" means the County of Sandoval, New Mexico.

Department, commission, office, officer and *employee.* The terms "department," "commission," "office," "officer" and "employee" mean a department, commission, office, officer and employee of the County of Sandoval, unless the context clearly indicates otherwise.

Discriminate. The term "discriminate" means, but is not limited to, separate or segregate.

Employee. The term "employee" does not include any individual employed by his parent, spouse or child or in the domestic service of any person.

Employer. The term "employer" means any person employing four or more employees in some kind of employment and any person acting in the interest of such employer, but does not include a social or fraternal club not organized for profit.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Housing. The term "housing" means any building, structure or its portion, used, occupied, intended, arranged or designed to be used or occupied as the home, residence or living quarters of one or more human beings, or any parcel of land or its portion, available for the construction of such building or structure.

Labor organization. The term "labor organization" means any organization existing and constituted for the purposes, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

Minor. The term "minor" means any person under the age of 18 years, unless otherwise provided by any specific section of this Code.

Month. The term "month" means a calendar month.

Nighttime. The term "nighttime" means the period of time between sunrise and sunset.

NMAC. The abbreviation "NMAC" refers to the New Mexico Administrative Code.

NMSA 1978. The abbreviation "NMSA" or "NMSA 1978" means New Mexico Statutes Annotated, 1978 Compilation, as amended.

Number. Words used in the singular include the plural, and the plural includes the singular number.

Oath. The term "oath" includes the term "affirmation" in all cases where an affirmation may be substituted for an oath, and, in like cases, the term "swear" includes the term "affirm."

Officers and employees. Whenever reference is made to an officer or employee by title only, this shall be construed as though followed by the words "of Sandoval County" and shall be taken to mean the officer or employee of the county having the title mentioned, or the person performing, at the direction of the administrator, the duties indicated.

Owner. When applied to a building or land, the term "owner" means any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety or person holding a community interest of the whole or a part of such building or land.

Person. The term "person" means an individual or incorporated association, society, club or firm.

Real property. The term "real property" includes lands, tenements and hereditaments.

Shall and *may.* The term "shall" is mandatory; the term "may" is permissive.

State. The term "state" means the State of New Mexico.

Tenant and *occupant.* When applied to a building or land, the terms "tenant" and "occupant" mean any person who occupies the whole or a part of such building or land, whether alone or with others.

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Tense. Words used in the present tense include the future tense.

Written and *in writing.* The terms "written" and "in writing" include printing, engraving or any other mode of representing words and letters.

Year. The term "year" means a calendar year.

Sec. 1-3. - General penalty; continuing violations; corrections fee.

(a) *General penalty and continuing violations.* Whenever in this Code or any rule or regulation promulgated under the provisions of this Code any act is prohibited or declared to be unlawful or an offense or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, where no specific penalty is provided therefor, any person who shall be convicted of the violation of any such provision of this Code shall be punished by a fine not exceeding $300.00 or by imprisonment not exceeding 90 days, or by both such fine and imprisonment. The maximum fine for discarding or disposing of litter, garbage or refuse other than an authorized landfill is $1,000.00; the maximum fine is $5,000.00 for illegal disposal of hazardous waste or waste in any manner other than as provided for in the Hazardous Waste Act. Every day of any violation of this Code constitutes a separate offense.

(b) *Aiding, abetting, compelling, coercing or participating in any unlawful act.* It is a violation of this Code for any person to aid, abet, compel, coerce or participate in the doing of any act violating this Code, or to obstruct or prevent enforcement of the provisions of the Code or to attempt, directly or indirectly, to commit any act that would violate this Code.

(c) *Enjoinment of violation.* Any person or the county has the right, at any time, to seek judicial enjoinment of violations of this Code, the procedures therefor to be in accordance with established procedure for issuance of injunctions and restraining orders.

(d) *Minors.* Any minor violating any provision of this Code other than traffic violations shall be dealt with in accordance with juvenile court law and procedure.

State law reference— County authority to enforce ordinances by fines or imprisonment, NMSA 1978, § 4-37-3.

Sec. 1-4. - Severability.

It is hereby declared to be the intention of the commission that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-5. - Uncodified ordinances.

(a) All ordinances adopted before the adoption date of this Code that are not of a general and permanent nature, including, but not limited to, budget ordinances, specific contracts, specific franchises and ordinances of temporary duration that are not included in this Code, are not repealed but are saved from repeal and shall continue in force and effect until they are repealed or expire. Such ordinances are on file and available in the county offices.

(b) Among the uncodified ordinances embraced in this section are ordinances:

(1) Promising or guaranteeing the payment of money for the county, or authorizing the issuance of any bonds or any evidence of indebtedness, or any contract or obligation assumed by the county.

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(2) Granting any right or franchise.

(3) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the county.

(4) Making any appropriation.

(5) Adopting a budget or amending same.

(6) Establishing or prescribing grades of any street.

(7) Providing for local improvements and assessing taxes therefor.

(8) Dedicating or accepting any plat or subdivision.

(9) Prescribing the number, classification, benefits or compensation of county officers or county employees not in the Code.

(10) Establishing, adopting, and amending personnel policies and handbooks.

(11) Pertaining to zoning.

(12) Prescribing traffic regulations for specific locations.

(13) Which is temporary, although general in effect.

(14) Which is special, although permanent in effect.

(15) The purpose of which has been accomplished.

Sec. 1-6. - Effect of Code on prior offenses, acts, rights, contracts, penalties or forfeitures.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance in effect on the date of adoption of this Code.

Sec. 1-7. - Catchlines, history notes and references.

(a) The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, or any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history notes appearing in parentheses after the sections of this Code and the references and notes scattered throughout the Code are for the informational benefit of the user of the Code and shall have no legal effect.

Sec. 1-8. - Supplementation of Code.

(a) By contract or by county personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the commission. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the commission or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially

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obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In the preparation of a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive corrections in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-9. - Amendments to Code.

(a) *Incorporation.* Any additions, deletions or amendments to this Code shall be adopted as ordinances as required by law, and when passed in the form provided in this section shall be incorporated into this Code.

(b) *Amendments.* Amendments to any of the provisions of this Code shall be made by specific reference to the section number of the Code in the following language: "Section _____ of the Sandoval County Code of Ordinances is amended to read as follows:…." The new provisions shall be set out in full and all new matter shall be underscored, and all matter to be deleted shall be set forth in brackets and lined through. All bracketed and lined-through material as well as the underscoring shall be omitted when the amended section is printed for inclusion in the Code. Where the heading of the section is changed, the table of contents of the Code shall be changed accordingly.

(c) *Addition.* If a new section is to be added to the Code, the following language shall be used: "The Sandoval County Code of Ordinances is amended by adding a new section to be numbered _____, which section reads as follows:…." The new section, which shall be included in the printed Code, shall then be set out in full. The numbering system of the Code, together with the table of contents, shall be changed accordingly.

(d) *Deletion.* If a section of the Code is to be deleted and repealed, the following language shall be used: "The Sandoval County Code of Ordinances is amended by deleting existing section _____." The numbering system of the Code, together with the table of contents, shall be changed accordingly.

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Chapter 2 - ADMINISTRATION [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - BOARD OF COMMISSIONERS

ARTICLE III. - FINANCE

ARTICLE IV. - BOARDS AND COMMISSIONS

FOOTNOTE(S):

--- (**1**) ---

State Law reference— Sandoval County boundaries and county seat, NMSA 1978, §§ 4-23-1, 4-23-2. (Back)

ARTICLE I. - IN GENERAL

Secs. 2-1—2-18. - Reserved.

Secs. 2-1—2-18. - Reserved.

ARTICLE II. - BOARD OF COMMISSIONERS [2]

Sec. 2-19. - Purpose.

Sec. 2-20. - Terms.

Sec. 2-21. - Creation of districts.

Sec. 2-22. - Commission meeting procedures.

Secs. 2-23—2-47. - Reserved.

Sec. 2-19. - Purpose.

As provided for in the New Mexico State Constitution, the county commission does, by the adoption of the ordinance from which this article is derived, express its intent to create for the county a five-member board of commissioners.

(Ord. No. 10-18-89, § 1, 10-18-1989)

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Sec. 2-20. - Terms.

All elected officials of the county shall serve four-year staggered terms. The terms of no more than three county commissioners shall expire in the same year.

(Ord. No. 10-18-89, § 2, 10-18-1989)

Sec. 2-21. - Creation of districts.

The board of county commissioners shall divide the county into five county commission districts. These districts shall be compact, contiguous and as nearly equal in population as possible. One county commissioner shall reside within and be elected from each county commission district.

(Ord. No. 10-18-89, § 3, 10-18-1989)

Sec. 2-22. - Commission meeting procedures.

Commission meeting procedures shall be as determined by resolution.

Secs. 2-23—2-47. - Reserved.

FOOTNOTE(S):

--- (**2**) ---

State Law reference— County powers, NMSA 1978, § 4-37-1; board requirements, NMSA 1978, § 4-38-2 et seq. (Back)

ARTICLE III. - FINANCE

DIVISION 1. - GENERALLY

DIVISION 2. - REVENUE BOND PROJECT EVALUATION

DIVISION 1. - GENERALLY

Secs. 2-48—2-67. - Reserved.

Secs. 2-48—2-67. - Reserved.

DIVISION 2. - REVENUE BOND PROJECT EVALUATION

Sec. 2-68. - Short title.

Sec. 2-69. - Purpose.

Sec. 2-70. - Definitions.

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Sec. 2-71. - Review and analysis of proposed project.

Sec. 2-72. - Board consideration of project plans.

Sec. 2-73. - Zoning compliance.

Sec. 2-74. - County attorneys.

Sec. 2-75. - Rules.

Sec. 2-76. - Status of bonds.

Sec. 2-77. - Fees and deposit.

Sec. 2-78. - Sunset date; date of issue.

Sec. 2-79. - Authorization to pledge incentive payments.

Secs. 2-80—2-101. - Reserved.

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Sec. 2-68. - Short title.

This division shall be known and may be cited as "revenue bond project evaluation policies and procedures and authorization to pledge incentive payments."

(Ord. No. 95-10-05.4B, § 1, 10-5-1995)

Sec. 2-69. - Purpose.

The purpose of this division is to establish policies and procedures for:

(1) Evaluating proposals to finance projects with revenue bonds;

(2) Providing the board with information on the merits of such projects; and

(3) Providing the procedures and authorization to issue revenue bonds secured by incentive payments.

(Ord. No. 95-10-05.4B, § 2, 10-5-1995)

Sec. 2-70. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means one or more persons or entities, or their successors, assigns or agents, who propose to acquire or construct a project financed by or proposed to be financed by the proceeds of revenue bonds.

Board means the board of county commissioners.

Bond means any bond, debenture, note, refunding or renewal bond or note, warrant or other security evidencing an obligation the proceeds of which, or a major portion thereof, are to be used in the trade or business carried on by someone other than the county and which are authorized to be issued by the county pursuant to:

(1) The County Revenue Bond Act (NMSA 1978, §§ 4-62-1 through 4-62-10, as amended);

(2) The County Industrial Revenue Bond Act (NMSA 1978, §§ 4-59-1 through 4-59-16, as amended);

(3) The County Pollution Control Revenue Bond Act (NMSA 1978, §§ 4-60-1 through 4-60-15, as amended);

(4) Municipal housing law (NMSA 1978, §§ 3-45-1 through 3-45-25, as amended); and

(5) The Home Rule County Validation Act (NMSA 1978, §§ 4-37-10 through 4-37-13, as amended).

Incentive payments means any revenues received by the county from the applicant, including, but not limited to, payments in lieu of taxes, supplemental rents, grants, donations or other contributions, and guaranties.

Inducement resolution means a resolution of the board setting forth the good-faith intent of the board to issue bonds upon the prior satisfaction of all applicable land use and development requirements of the county, other than the issuance of a building permit.

Notice of intent means a form of notice of intent to adopt an ordinance providing for the issuance of revenue bonds to be published in accordance with applicable law upon approval by the board.

Project plan means the plan describing a project which shall include:

(1) A general description and location of the project;

(2) The number and type of new jobs to be created by the project;

(3) The estimated percentage of these jobs that will be filled by persons who are residents of the county;

(4) Identification of any product associated with the project and a description of the methods of processing the product;

(5) Any relocation of individuals or businesses that will likely occur as a result of the project;

(6) The present use, conditions, current and proposed zoning, and assessed value of the project site;

(7) The estimated value of the project site after completion of the project;

(8) The maximum amount of the bonds to be issued for the project;

(9) The proposed construction schedule;

(10) Information documenting the feasibility of the proposed project including information establishing the ability of the project to generate revenues to render the project self-liquidating;

(11) An analysis of how the project will influence competition in the type of commerce or industry already existing within the county and its environs;

(12) The effect of the project on existing industry and commerce in the county, including during and after the construction period;

(13) The amount of private investment in the project in addition to bond financing;

(14) The total dollar amount of the proposed improvements included as part of the project;

(15) A statement of when the bonds are proposed to be issued;

(16) Identification of the underwriter(s) purchasing the bonds;

(17) Resumes showing the experience of the development entity or principals, and the experience of the architect, contractor, and leasing agent, if relevant;

(18) A statement of plans for project management;

(19) Conceptual site plans for the project;

(20) A map locating the project area;

(21) A statement of the project's potential impact on the environment and natural resources within the county; and

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(22) Other matters as may be relevant to the project or requested by the county manager.

(Ord. No. 95-10-05.4B, § 3, 10-5-1995)

Sec. 2-71. - Review and analysis of proposed project.

The applicant shall make a request to issue bonds for a project by filing with the county manager an inducement resolution or notice of intent, seven copies of the project plan and the fees and deposit required by this division. The county manager shall review all bond projects to determine that proposed project plans are complete. Within 15 days of receiving the project plan, the county manager, or her designee, may:

(1) Appoint the county employees he deems appropriate to prepare an economic and fiscal analysis of the proposed project; or

(2) Issue a request for proposal (RFP) from independent consultants to prepare an economic and fiscal analysis of the proposed project. This analysis shall evaluate the proposed project according to the revenue bond project criteria promulgated by the county manager.

(Ord. No. 95-10-05.4B, § 4, 10-5-1995)

Sec. 2-72. - Board consideration of project plans.

(a) Upon receipt of the completed analysis, the county manager shall submit to the board for discussion during the next regularly scheduled meeting of the board:

(1) The project plan;

(2) The completed analysis; and

(3) The county manager's recommendation to approve, conditionally approve, or reject the proposed plan.

In order to permit public comments on the proposed plan, the board shall defer final action on the plan until the next regularly scheduled meeting after receiving and discussing the project plan, the analysis, and the county manager's recommendation.

(b) Any person wishing to comment on the proposed plan or the county manager's recommendations may do so by submitting written comments to the board with a copy to the county manager at least eight days before the regular meeting during which the board is scheduled to take final action on the proposed plan.

(c) The manager's recommendation and the board's final action to approve, conditionally approve, or to disapprove a project plan and inducement resolution or notice of intent shall take into consideration the county's development plans and policies and the promotion of the health, safety, security and general welfare of the citizens of the county and the state.

(Ord. No. 95-10-05.4B, § 5, 10-5-1995)

Sec. 2-73. - Zoning compliance.

After adoption of the inducement resolution or notice of intent by the board and prior to the board adopting an ordinance authorizing the issuance of the bonds, the applicant shall submit any required site development or landscape plans to the building/planning/zoning department. As evidence of compliance with all zoning requirements, the applicant must provide at any time prior to the issuance of the bonds, a certificate of zoning compliance signed by the building/planning/zoning director or his designee.

(Ord. No. 95-10-05.4B, § 6, 10-5-1995)

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Sec. 2-74. - County attorneys.

(a) The county's bond counsel shall prepare or direct the preparation of all appropriate resolutions, ordinances, trust indentures or other necessary documents relating to the bonds and the issuance thereof.

(b) All resolutions, notices of intent, and ordinances, financing agreements, closing documents and other documents relating to the county and relating to the bonds and issuance thereof shall be submitted to the county attorney and the county's bond counsel, in sufficient time for review by such attorneys prior to the board taking any required action on such documents or execution of the documents by county officials, as applicable.

(Ord. No. 95-10-05.4B, § 7, 10-5-1995)

Sec. 2-75. - Rules.

The county manager may establish such rules, not inconsistent with any county ordinance or this division, as the county manager may deem necessary to carry out the requirements of this division.

(Ord. No. 95-10-05.4B, § 8, 10-5-1995)

Sec. 2-76. - Status of bonds.

The principal and interest of the bonds approved by the board shall be payable solely out of the revenue derived from the project for which the bonds are issued, from applicable tax revenues, from any guarantee agreement or agreements, insurance, surety or a credit enhancement upon which the guarantor or obligor is other than the county. The bonds shall never constitute a debt or indebtedness of the county within the meaning of any provision or limitation of the New Mexico Constitution, statutes of the state or any county ordinance, and such bonds shall not constitute nor give rise to a pecuniary liability of the county or a charge against its general credit or taxing powers.

(Ord. No. 95-10-05.4B, § 9, 10-5-1995)

Sec. 2-77. - Fees and deposit.

(a) In addition to any other fees imposed pursuant to ordinance or resolution, the applicant shall pay the county:

(1) A fee equal to one-tenth of one percent of the face amount of the bonds to be issued to compensate the county for its reasonable administrative expenses incurred in the approval of the project and issuance of the bonds, provided that the fee shall not be less than $500.00 nor more than $5,000.00; and

(2) A deposit of $2,500.00 to be applied against the payment of costs associated with issuing the RFP and obtaining the analysis, upon the county manager's determination, as provided by this division and for any attorney fees associated with processing the request. If the lowest responsive proposal for conducting an analysis of the project exceeds this deposit, the applicant shall pay the county, before the analysis is initiated, any additional amount that is necessary to conduct the analysis and pay any attorney fees associated with processing the request.

(b) In addition to the fees and deposits set forth in this section, the applicant shall pay all attorneys fees and expenses of the county's bond counsel whether or not the bonds are issued.

(Ord. No. 95-10-05.4B, § 10, 10-5-1995)

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Sec. 2-78. - Sunset date; date of issue.

(a) The authorizing ordinance shall set a final date for issuance of the proposed bonds. Bonds to be issued pursuant to the County Revenue Bond Act (NMSA 1978, §§ 4-62-1 through 4-62-10, as amended) shall not have a final issuance date more than two years from the date of the adoption of the ordinance authorizing the issuance of the bonds. The "sunset date" may be extended by the adoption of a new or amended authorizing ordinance if the applicant presents a revised project schedule with supporting evidence acceptable to the board that the extension is justified for good cause and necessary for project completion.

(b) The authorizing ordinance shall state the year or years in which the bonds will be issued, and the bonds shall not be issued in a year other than that stated in the authorizing ordinance except upon approval by the board.

(Ord. No. 95-10-05.4B, § 11, 10-5-1995)

Sec. 2-79. - Authorization to pledge incentive payments.

(a) In addition to any other law authorizing the county to issue revenue bonds, the county may issue revenue bonds pursuant to the powers granted to counties in NMSA 1978, § 4-37-1, as amended, to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants.

(b) Incentive payment revenue bonds may be issued by the county for the exercise of any essential governmental function.

(c) The county may pledge irrevocably any or all of the revenues from incentive payments for payment of principal, premium, if any, and interest due in connection with, and other expenses related to incentive payment revenue bonds. These bonds may be referred to as "Sandoval County, New Mexico, Incentive Payment Revenue Bonds."

(d) Incentive payment revenue bonds:

(1) May have interest, appreciated principal value or any part thereof, payable at intervals or at maturity as may be determined by the board in the ordinance;

(2) May be subject to prior redemption at the county's option at such time and upon such terms and conditions with or without the payment of premium as may be provided by ordinance;

(3) May mature at any time not exceeding the latest date of receipt of revenues from incentive payments;

(4) May be serial in form and maturity or may consist of one bond payable at one time or in installments or may be in such other form as may be determined by the board;

(5) Shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act (NMSA 1978, §§ 6-14-1 to 6-14-3, as amended); and

(6) May be sold at public or negotiated sale.

(e) At a regular or special meeting called for the purpose of issuing incentive payment revenue bonds, the board may adopt an ordinance that:

(1) Declares the necessity for issuing incentive payment revenue bonds;

(2) Authorizes the issuance of incentive payment revenue bonds by an affirmative vote of a majority of all the members of the board; and

(3) Designates the incentive payments pledged.

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Any revenue in excess of the amount necessary to meet all annual principal and interest payments and other requirements incident to repayment of the incentive payment revenue bonds may be transferred to any other fund of the county.

(f) Incentive payment bonds.

(1) Incentive payment revenue bonds or incentive payment refunding revenue bonds are:

a. Not general obligations of the county; and

b. Collectible only from the properly pledged incentive payment revenues, and each bond shall state that it is payable solely from the properly pledged incentive payment revenues and that the bondholders may not look to any other county fund for the payment of the interest and principal of the bonds.

(2) The bonds shall be executed by the chairman of the board and treasurer or the clerk and may be authenticated by any public or private transfer agent or registrar, or its successor, named or otherwise designated by the board. The bonds may be executed as provided under the Uniform Facsimile Signature of Public Officials Act (NMSA 1978, §§ 6-9-1 to 6-9-6, as amended), and the coupons, if any, shall bear the facsimile signature of the treasurer of the county.

(g) Refunding revenue bonds.

(1) The county, having issued incentive payment revenue bonds as herein authorized, may issue refunding revenue bonds for the purpose of refinancing, paying and discharging all or any part of the outstanding bonds of any outstanding issues. These bonds may be referred to as "Sandoval County, New Mexico, Incentive Payment Refunding Revenue Bonds."

(2) The county may pledge irrevocably for the payment of interest and principal on refunding bonds the appropriate pledged revenues that may be pledged to an original issue of bonds.

(3) Bonds for refunding and bonds for any purpose permitted herein may be issued separately or issued in combination in one or more series.

(h) Refunding bonds to be authorized by ordinance.

(1) Refunding bonds issued hereunder shall be authorized by ordinance. Any bonds that are refunded under the provisions of this subsection (h) shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds or otherwise appertaining thereto, except for any bond that is voluntarily surrendered for exchange or payment by the holder or owner.

(2) Provisions shall be made for paying the bonds refunded at the time provided in subsection (h)(1) of this section. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds and may also be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the payment of the refunded bonds.

(3) The proceeds of refunding bonds, including any accrued interest and premium appertaining to the sale of refunding bonds, shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company that possesses and is exercising trust powers and that is a member of the federal deposit insurance corporation to be applied to the payment of the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that such refunding bond proceeds, including any accrued interest and any premium appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest thereon and the principal thereof or both interest and principal as the county may determine. Nothing in this section requires the establishment of an escrow if the refunded bonds become due and payable within one year from the date of the refunding bonds and if the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for

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the refunded bonds. Any escrow shall not be limited to proceeds of refunding bonds but may include any other money available for its purpose. Any proceeds in escrow pending such use may be invested or reinvested in bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States or in certificates of deposit of banks that are members of the federal deposit insurance corporation, the par value of which certificates of deposit is collateralized by a pledge of obligations of, or the payment of which is unconditionally guaranteed by, the United States, the par value of which obligations is at least 75 percent of the par value of the certificates of deposit. Such proceeds and investments in escrow together with any interest or other income to be derived from any such investment shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date in connection with which the county shall exercise a prior redemption option. Any purchaser of any refunding bond issued is in no manner responsible for the application of the proceeds thereof by the county or of its officers, agents or employees.

(4) Refunding bonds may bear such additional terms and provisions as may be determined by the county, and the refunding bonds are not subject to the provisions of any other statute.

(i) Incentive payment refunding revenue bonds:

(1) May have interest, appreciated principal value or any part thereof, payable at intervals or at maturity as may be determined by the board in the ordinance;

(2) May be subject to prior redemption at the county's option at such time and upon such terms and conditions with or without the payment of a premium as may be provided by ordinance;

(3) May be serial in form and maturity or may consist of a single bond payable in one or more installments or may be in such other form as may be determined by the board; and

(4) Shall be exchanged for the bonds, and any accrued unpaid interest, being refunded at not less than par or sold at public or negotiated sale at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act (NMSA 1978, §§ 6-14-1 to 6-14-3, as amended).

(j) At any regular or special meeting called for the purpose of issuing incentive payment refunding revenue bonds, the board, by a majority vote of all the members of the board, may adopt an ordinance authorizing the issuance of the incentive payment refunding revenue bonds.

(Ord. No. 95-10-05.4B, § 12, 10-5-1995)

Secs. 2-80—2-101. - Reserved.

ARTICLE IV. - BOARDS AND COMMISSIONS

DIVISION 1. - GENERALLY

DIVISION 2. - JUVENILE JUSTICE BOARD

DIVISION 1. - GENERALLY

Secs. 2-102—2-130. - Reserved.

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Secs. 2-102—2-130. - Reserved.

DIVISION 2. - JUVENILE JUSTICE BOARD

Sec. 2-131. - Board created.

Sec. 2-132. - County juvenile justice board structure.

Sec. 2-133. - Duties and responsibilities of the county juvenile justice board.

Sec. 2-134. - Duties of the county.

Sec. 2-135. - Reporting.

Sec. 2-136. - Rules established as policy.

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Sec. 2-131. - Board created.

The Sandoval County Juvenile Justice Board is hereby created, confirmed and recognized.

(Ord. No. 5-17-12.9A, § 1, 5-17-2012)

Sec. 2-132. - County juvenile justice board structure.

(a) *Committees.* The county juvenile justice board shall be comprised of two committees: the executive committee and the auxiliary committee. Only members of the executive committee are considered voting members of the county juvenile justice board. Subcommittees shall be established through an annual review by the county juvenile justice board and youth participants.

(b) *Co-chairs.* A thirteenth judicial district court judge for the county (or designee) and the chair of the county commission (or designee) shall serve as co-chairs of the county juvenile justice board. The co-chairs are members of the executive committee of the county juvenile justice board.

(c) *Members.*

(1) The county juvenile justice board executive committee shall be appointed by the co-chairs and consist of an indeterminate number members, not fewer than 11 or more than 21 (including the co-chairs). Members of the executive committee are considered voting members of the county juvenile justice board and shall include representatives from the following: the community, the children, youth and families department, local governments, school districts youth services community, government organizations and other entities whose purpose is to assist children and families. Alternates may be designated by the co-chairs and other members of the executive committee, as may be necessary from time to time.

(2) The auxiliary committee members shall be appointed by the co-chairs and consist of community members reflecting individuals and programs serving the youth of the county. Community members shall provide input and expertise to enhance the county juvenile justice board's discussions and guide the decisions of voting members.

(d) *Staff.* The co-chairs and/or a committee appointed by the co-chairs shall screen qualified applicants for the juvenile continuum coordinator position and submit their recommendations to the county manager. The coordinator and other approved positions are county employees and as such are covered by the county's personnel ordinance, rules and regulations and any other administrative policy. The coordinator is to manage, schedule, record and track the activities and decisions of the board. The coordinator shall be supervised by the county manager.

(Ord. No. 5-17-12.9A, § 2, 5-17-2012)

Sec. 2-133. - Duties and responsibilities of the county juvenile justice board.

Consistent with the requirements of this division, the county juvenile justice board is responsible for the following:

(1) Establishing the yearly budget, subject to approval by the county.

(2) Negotiating and recommending approval of contracts to be entered into by the county and third parties.

(3) Recommending the hiring of subcontractors as necessary, subject to budget constraints and the county's procurement process.

(4) Approving the processing of payments for services to be paid by the county.

(5) Creating and amending bylaws for the county juvenile justice board.

(Ord. No. 5-17-12.9A, § 3, 5-17-2012)

Sec. 2-134. - Duties of the county.

(a) The county shall act as fiscal agent for the county juvenile justice board for all state and federal monies received as well as contractual reimbursements for services provided.

(b) The county shall have the authority to consider a yearly budget as proposed by the county juvenile justice board.

(c) The county will enter into contracts based upon the available yearly budget.

(Ord. No. 5-17-12.9A, § 4, 5-17-2012)

Sec. 2-135. - Reporting.

The county juvenile justice board shall report quarterly to the county, as determined by the county manager, on efforts to prevent and reduce juvenile delinquency and gang involvement in the county.

(Ord. No. 5-17-12.9A, § 5, 5-17-2012)

Sec. 2-136. - Rules established as policy.

The rules and regulations adopted under the authority of this division are established as policy of the board of county commissioners to implement its provisions.

(Ord. No. 5-17-12.9A, § 6, 5-17-2012)

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Chapter 3 - RESERVED

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Chapter 4 - ANIMALS [1]

Sec. 4-1. - Definitions.

Sec. 4-2. - Repealing clause.

Sec. 4-3. - Authority of sheriff and animal control officers.

Sec. 4-4. - Impounding estrays; records to be kept; redemption fees; notice required; owner's impoundment.

Sec. 4-5. - Rabies.

Sec. 4-6. - Animal biting a person.

Sec. 4-7. - Restraint of dogs.

Sec. 4-8. - Female dogs or cats in mating season to be confined.

Sec. 4-9. - Prohibited activities.

Sec. 4-10. - Cruelty to animals prohibited.

Sec. 4-11. - Exceptions.

Sec. 4-12. - Animal killing or injuring livestock and/or protected wildlife; damages; animal to be killed.

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Sec. 4-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any vertebrate members of the animal kingdom excluding humans.

Animal fighting paraphernalia means equipment that any reasonable person would ascertain is used for prohibited animal fighting purposes. This equipment includes, but is not limited to, any instruments designed to be attached to the leg of a bird, such as a knife, a gaff or other sharp instrument. This definition also includes items to train and condition dogs to fight, including, but not limited to, hides or other material used as hanging devices to strengthen or condition dogs, wooden sticks or handles used to pry open a dog's jaws, performance enhancing drugs or substances, or food or water additives. Additionally, this definition includes the presence of any dog that appears to be a fighting dog alone or together with animals suspected of being used as bait animals, including, but not limited to, rabbits, cats and other dogs.

Bite means any actual puncture or tear of the skin inflicted by the teeth of an animal.

Commercial animal establishment means any establishment or premises, operating for profit, where six or more dogs and/or cats aggregate thereof, over four months of age are boarded, kept, or maintained for any purpose whatsoever; it includes kennels, grooming parlors, and pet shops.

County means and includes all unincorporated areas within the boundaries of the county, including privately owned land but excluding areas within the limits of any incorporated municipality or within Indian pueblo or reservation boundaries.

Enclosed lot means parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.

Estray means any animal found running at large.

Grooming parlor means any commercial animal establishment or part thereof, or premises maintained for the purposes of offering animals' cosmetic services.

Kennel means any commercial animal establishment or premises where animals are boarded, kept or maintained.

Livestock means horses, cattle, pigs, sheep, goats, rabbits and/or fowl or any other animals used for agricultural purposes.

Nonprofit animal facility means any facility or premises not operating for profit where six or more dogs and/or cats or aggregate thereof, over four months of age are kept or maintained; it includes shelters, refuges, private hobby kennels, and hobby breeders, with the exception of state-inspected veterinary hospitals, federal inspected laboratory facilities and zoos.

Nuisance means, but is not limited to, defecation, urination, disturbing the peace with loud or continuous barking, emitting noxious or offensive odors onto neighboring properties or otherwise endangering the well being of the inhabitants of the county.

Owner of an animal means a person who owns, harbors, or keeps, or knowingly causes or knowingly permits an animal to be harbored or kept or has an animal in his care, or who permits an animal to remain on or about his premises.

Quarantine means to detain or isolate an animal suspected of contagion.

Run at large or *running at large* means to be free of physical restraint beyond the boundaries of the premises of the owner.

Shelter means any nonprofit animal facility whose primary function is to bring aid and comfort to animals.

Vaccination means protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by the U.S. Department of Agriculture, Bureau of Animal Industry, State of New Mexico Rabies Control Act of 1959, as amended; given in an amount sufficient to provide immunity from rabies for a minimum of three years.

Vicious animal means any animal which shall bite or in any other manner attack or attempt to attack any person or other animal within the county, except that any animal that bites, attacks, or attempts to attack any person or other animal within the county, upon its owner's or keeper's premises, or which is provoked to attack, shall not be deemed a vicious animal.

(Ord. No. 05-06-16.10, § 1, 6-16-2005)

Sec. 4-2. - Repealing clause.

All county ordinances and other ordinances and parts thereof that solely relate to animals or the control of the same heretofore imposed by the county and that are in conflict herewith are hereby repealed. Any conflict between this chapter and any previously enacted ordinance not repealed herein shall be controlled by this chapter.

(Ord. No. 05-06-16.10, § VIII, 6-16-2005)

Sec. 4-3. - Authority of sheriff and animal control officers.

The county sheriff's officers and the animal control officers shall have the authority to issue citations for violation of this chapter and to perform such other duties as are prescribed herein. The animal control officers shall carry identification certifying him as being an animal control officer. The animal control officers shall be under the supervision of the county sheriff's department.

(Ord. No. 05-06-16.10, § II, 6-16-2005)

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Sec. 4-4. - Impounding estrays; records to be kept; redemption fees; notice required; owner's impoundment.

(a) No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal of which he is not the owner, for more than 24 hours without first reporting the possession of such animal to the county animal control officer, giving his name and address, and a true and complete statement of the circumstances under which he took the animal, a description of the animal and the precise location where such animal is confined.

(b) It shall be the responsibility of an animal owner redeeming an animal legally impounded under the provisions of this chapter to reimburse the animal control facility for animal boarding or other costs. The county manager shall prescribe the amount of the impoundment fee approximately based upon actual cost.

(c) The animal control officer shall maintain a record of all animals impounded. The record shall contain at least the following information:

(1) A complete description of the animal;

(2) The date and manner of its acquisition;

(3) The date, manner and place of impoundment.

(Ord. No. 05-06-16.10, § III, 6-16-2005)

Sec. 4-5. - Rabies.

(a) *Vaccinations.* It is the duty of all persons owning or keeping a dog or cat or any member of the canine or feline family over the age of three months, to have such animals vaccinated against rabies. An owner shall furnish proof of vaccination to the county upon demand.

(b) *Rabid animal.* An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal afflicted with rabies or exposed to rabies shall be confined at once in a secure place by the owner.

(Ord. No. 05-06-16.10, § IV, 6-16-2005)

Sec. 4-6. - Animal biting a person.

(a) The owner of an animal that bites a person and a person bitten by an animal have a duty to report that occurrence to a county animal control officer within 24 hours. The owner of an animal that bites a person shall surrender said animal to an animal control officer if the county animal control supervisor deems it necessary to impound said animal for a period of observation. The animal control officer may order the owner of such animal to place the animal in quarantine on the owner's premises.

(b) A physician who renders professional treatment to a person bitten by an animal shall report the fact he has rendered professional treatment to the county animal control supervisor within 24 hours of his first professional attendance. The physician shall report the name and address of the person bitten as well as the type and location of the bite. The physician shall give the name and address of the owner of the animal that inflicted the bite, if known, and any other facts or details that may assist the county animal control officer in ascertaining the immunization status of the animal.

(c) An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary and appropriate for public protection by the supervisor of the county animal control. The supervisor of the county animal control office may consent to confinement on the owner's premises.

(Ord. No. 05-06-16.10, § IV, 6-16-2005)

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Sec. 4-7. - Restraint of dogs.

Every person owning or having charge, custody, or care or control of any dog shall keep such animal exclusively upon his own premises or under the owner's control.

(Ord. No. 05-06-16.10, § IV, 6-16-2005)

Sec. 4-8. - Female dogs or cats in mating season to be confined.

Any person in control of a female dog or cat in mating season shall confine such dog or cat as to preclude other dogs or cats from attacking or being attracted to such female animal.

(Ord. No. 05-06-16.10, § IV, 6-16-2005)

Sec. 4-9. - Prohibited activities.

(a) *Animals running at large.* It is unlawful for any person to allow or permit any animal to run at large in or on any street, alley, sidewalk, vacant lot, public property, other unenclosed place in the county; or private property without the permission of the owner thereof. Any animal permitted to run at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and shall be taken up and impounded. A working dog performing such acts as herding or search and rescue under the control and supervision of owner/handler shall not be considered as unleashed while performing these duties. A hunting, obedience, tracking or show dog shall not be considered unleashed while performing in the above capacities. The provisions of this subsection shall not apply to livestock.

(b) *Vicious animals.* It is unlawful for any person to keep or harbor a vicious animal in the county. Any person attacked by a vicious animal while on public property may use necessary force to repeal said attack. After a judicial determination that an animal is vicious, the owner or keeper of such vicious animal shall destroy it humanely or turn such animal over to an animal control officer for destruction.

(c) *Animals disturbing the peace.* It is unlawful for any person to allow any animal to unreasonably bark or howl or otherwise to disturb the peace and quiet of the inhabitants of the county, to keep or maintain in such a manner as to allow noxious or offensive odors to emanate from the property, and to otherwise endanger the health and welfare of the inhabitants of the county. The provisions of this subsection shall not apply to livestock.

(d) *Dogs trained to assist the blind, deaf and/or handicapped allowed in public places.* It is unlawful for any person owning, operating, or maintaining any public place of business or conveyance into which the general public is invited for any business purpose to debar or exclude therefrom any dog which has been trained to assist the blind, deaf, and/or disabled, provided that such dog be in the company of the blind, deaf, and/or disabled person whom it was trained to assist in conformance with NMSA 1978, § 28-11-3.

(Ord. No. 05-06-16.10, § V, 6-16-2005)

Sec. 4-10. - Cruelty to animals prohibited.

(a) *Physical abuse.* It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club, or other object; mutilate, burn, or scald with any substance; overdrive or otherwise cruelly set upon any animal, except that necessary force may be employed to drive off vicious or trespassing animals. Hunting or fishing in accordance with law shall not be construed as a violation of this section.

(b) *Care and maintenance.* It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody, as owner or otherwise, with adequate food, drink, shade, ventilation, care, or shelter to maintain good health.

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(c) *Abandonment of animals.* It is unlawful for any person to abandon any animal within the county.

(d) *Animal poisoning.* It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance that has in any manner been treated or prepared with any harmful poisonous substance. It is not the intent of this section to prohibit the use of poisonous substances for the control of vermin of significance to the public health.

(e) *Animal fighting.*

(1) No person shall promote, stage, hold, manage, conduct, carry on, train for or attend a game, show, exhibition, contest or fight in which one or more animals are injuring, killing, maiming or destroying themselves or other animals or attempting to harm other animals or people. Any person who attends or observes any animal fight is vicariously criminally liable, the same as if that person owned the animals or staged the fight, and that person is a party to the crime whether that person paid for entry to the event or not. The owner of any premises used for animal fighting is guilty of a misdemeanor. Any person who profits in any way from an animal fight, including, but not limited to, on-site vendors or purveyors of illegal gambling concerning an animal fight is guilty of a misdemeanor. Any person who sells, receives, possesses, transports, loans or gives away any animal fighting paraphernalia is guilty of a misdemeanor.

(2) No person shall provoke or entice an animal from the property of its owner for the purpose of engaging the animal in an animal fight. Any violation of this section amounts to the felony of extreme cruelty under state law but the person(s) may be charged under this chapter with cruelty if not charged with extreme cruelty.

(f) *Interference with officials prohibited.* It shall be unlawful for any person to interfere, hinder or prevent the animal control officers or sheriff's deputies in enforcing any provision of this chapter.

(g) *Right of entry.* The animal control officer, in performance of his duties, may enter upon private property except into a private residence, for the purpose of apprehending animals running at large and stray animals.

(Ord. No. 05-06-16.10, § VI, 6-16-2005)

Sec. 4-11. - Exceptions.

The provisions of sections 4-8 through 4-10 shall not apply to livestock, except for section 4-10(e), animal fighting.

Sec. 4-12. - Animal killing or injuring livestock and/or protected wildlife; damages; animal to be killed.

If any animal shall kill or injure any livestock and/or protected wildlife, the owner or keeper of such animal shall be liable for all damages that may be sustained thereby, to be recovered by the party so injured before any court having competent jurisdiction. It shall be unlawful to keep such animal after it is known the animal has killed or injured livestock and/or protected wildlife. It shall be the duty of the owner to surrender the animal to animal control for proper humane euthanization upon order of the court after a finding that the animal has killed or injured livestock and/or protected wildlife. It shall be the right of any owner of livestock and/or protected wildlife so killed or injured by the actions of any animal to kill the animal while it is upon property controlled by the owner of the livestock and/or protected wildlife.

(Ord. No. 05-06-16.10, § VII, 6-16-2005)

FOOTNOTE(S):

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State Law reference— Dogs and domesticated animals, NMSA 1978, § 77-1-1 et seq. (Back)

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Chapter 5 - RESERVED

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Chapter 6 - BUILDINGS AND BUILDING REGULATIONS

(RESERVED)

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Chapter 7 - RESERVED

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Chapter 8 - BUSINESSES AND BUSINESS REGULATIONS [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - FEES

FOOTNOTE(S):

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State Law reference— County may impose business license fees, NMSA 1978, § 3-38-3; county regulatory authority regarding numerous businesses, NMSA 1978, § 4-37-1. (Back)

ARTICLE I. - IN GENERAL

Secs. 8-1—8-18. - Reserved.

Secs. 8-1—8-18. - Reserved.

ARTICLE II. - FEES

Sec. 8-19. - Business registration fee.

Sec. 8-19. - Business registration fee.

(a) All persons proposing to engage in business within the unincorporated areas of the county shall apply for and pay a business registration fee for each outlet, branch or location within the county limits prior to engaging in business, unless exempted.

(b) Any person filing an application for issuance or renewal of any business registration shall include in the application his current revenue division taxpayer identification number or evidence of application for current revenue division taxpayer identification number.

(c) There is imposed on each place of business located within the unincorporated areas of the county an annual business registration fee of $35.00 for each calendar year. The fee is imposed pursuant to NMSA 1978, § 3-38-3 and shall be known as the "business registration fee."

(d) There shall be imposed upon each delinquent registration fee a late fee in the amount of $10.00 if a new business does not pay the registration fee before it commences business or the annual renewal fee on the date such renewal fee is due. Each person shall pay a business registration fee on a yearly basis one year after the date of commencing business and yearly on that date each year thereafter that such individual continues to operate a business in the unincorporated areas of the county.

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(e) Business owners in the unincorporated areas of the county whose businesses are still in operation and have not renewed their business registration when due may be cited in magistrate court.

(f) A violation of this section may be enforced by appropriate legal or administrative action brought to prevent the conduct of business, restraining, correcting or abating the violation of this article or to prevent the occupancy of a building, structure or land on which the business is located, or to withhold the issuance of permits or inspections as appropriate. In addition to any civil remedies, violation of this section may be enforced as a criminal action in magistrate court.

(g) Notwithstanding the provisions of this section, no business registration fee shall be imposed on any sanctioned and registered athletic official who officiates for any association or organization which regulates any public school activity and whose rules and regulations are approved by the state board of education. Additionally, any part-time artist whose income from sale of his artwork in the prior taxable year did not exceed $1,000.00 is exempt from the business registration fee.

(h) Business registrations shall be issued by the office of the county clerk, which shall administer all requirements of this section.

(Ord. No. 01-12-6.9A, art. I, 12-6-2001)

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Chapter 9 - RESERVED

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Chapter 10 - ELECTION

ARTICLE I. - IN GENERAL

ARTICLE II. - IMPROVEMENT DISTRICT ELECTION PROCEDURES

ARTICLE I. - IN GENERAL

Secs. 10-1—10-18. - Reserved.

Secs. 10-1—10-18. - Reserved.

ARTICLE II. - IMPROVEMENT DISTRICT ELECTION PROCEDURES [1]

Sec. 10-19. - Short title.

Sec. 10-20. - Purpose.

Sec. 10-21. - Definitions.

Sec. 10-22. - Legal lot system of voting; qualifications of electors.

Sec. 10-23. - List of voters; notice to landowners.

Sec. 10-24. - List of landowners; notice to landowners.

Sec. 10-25. - Manner of marking ballot; determining right to vote.

Sec. 10-26. - Determination of election result.

Sec. 10-27. - Owners of property for voting purposes; voting by corporations or other entities.

Sec. 10-19. - Short title.

This article may be referred to as the "improvement district election procedures ordinance."

(Ord. No. 99-09-09.6A, § 1, 9-9-1999)

Sec. 10-20. - Purpose.

The purpose of this article is to establish policies and procedures for conducting elections pursuant to state law on the question of the issuance by improvement districts of general obligation bonds (the "bonds"), the proceeds of which will be used for the acquisition and construction of improvements within the improvement district, and to impose property taxes on all taxable property within the improvement district for the purpose of paying the principal and debt service on the bonds and other expenses incidental to the issuance and sale of the bonds.

(Ord. No. 99-09-09.6A, § 2, 9-9-1999)

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Sec. 10-21. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affidavit means an affidavit in a form prescribed by the board pursuant to which a prospective elector certifies its qualification as to ownership of land or other qualification to vote in an election.

Ballot means the official form of ballot prescribed by the board for an election.

Board means the board of county commissioners of Sandoval County, New Mexico.

Bonds means any general obligation bonds or general obligation refunding bonds issued pursuant to NMSA 1978, § 4-55A-12.1, as amended, the purpose of which is to pay for the improvements within the improvement district.

Chairperson means the chairperson or vice-chairperson of the board.

County clerk means the county clerk or a duly authorized deputy county clerk.

Debt service means the principal of, interest on and premium, if any, on the bonds when due, whether at maturity or prior redemption and fees and costs of registrars, trustees, paying agents or other agents necessary to handle the bonds and the costs of credit enhancement or liquidity support.

Election or *special election* means the special election to be held pursuant to the Mail Ballot Election Act, NMSA 1978, §§ 1-23-1 through 1-23-7, for the purpose of submitting to the qualified landowners within the district the questions of whether to impose an improvement district property tax and whether to issue the bonds.

Event of default means any of the events stated in the ordinance from which this article is derived.

Expenses incidental to the issuance and sale of the bonds means and includes, but is not limited to, the fees and expenses of bond counsel, underwriters, financial advisors, credit enhancement, bond insurers, credit rating agencies, financial printers, securities depositories, the administrative fees and expense of the county and other similar expenses.

Improvement district or *district* means an improvement district created by the board pursuant to the Act.

Improvement district property tax means the improvement district property tax authorized to be imposed by the board pursuant to NMSA 1978, § 4-55A-12.1 not to exceed $20.00 per $1,000.00 of net taxable value of real property in the improvement district subject to property taxation.

Landowner means the person who on the day the action, election or proceeding is begun or held, appears to be the owner of real property as shown on the assessment roll by the county assessor.

Legal lot system of voting means the system of voting used in an election the result of which is determined by a vote of at least 51 percent of the owners of the number of legal lots represented by the votes cast at an election.

Mail Ballot Election Act is defined as in NMSA 1978, §§ 1-23-1 through 1-23-7.

(Ord. No. 99-09-09.6A, § 3, 9-9-1999)

Sec. 10-22. - Legal lot system of voting; qualifications of electors.

(a) The board hereby adopts the legal lot system of voting. In the legal lot system of voting, there shall be no polling place. In the legal lot system of voting, all persons who are landowners of land within the district, provided that if any tract or lot in the district is owned by more than one landowner, only one person shall be entitled to vote at the special election as the landowner of such legal lot; and provided further that each qualified voter shall be entitled to cast and have counted as many votes as he shall have legal lots of record owned by him and situated within the district. Insofar as applicable, the general election laws of the state, except as otherwise provided herein, shall govern the special

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election. Each landowner shall be mailed an absentee ballot along with a statement that there will be no polling place for the special election. The landowner shall not be required to file an application for the absentee ballot. The ballot shall be mailed to each landowner no earlier than the 35th day prior to the election and the mailing shall be completed by the fifth day before the election. Each landowner shall be entitled to one vote for each legal lot owned in the district on each question submitted. When the landowner is a married person, only one spouse in whose name the title stands may vote at such election. If record title is held in more than one name, only one owner otherwise possessing the qualifications of a landowner may vote in the election. No person shall vote by proxy or by power of attorney except an officer or agent designated in writing as proxy or agent of a corporation, partnership, limited partnership, or limited liability company, entitled to vote at the special election.

(b) The manager of a limited liability company, or the member designated in writing by the other members, may represent and cast the vote of the limited liability company.

(c) The administrator or executor of a deceased person, and the guardian of a minor or an incompetent person, appointed and qualified under the laws of the state, may represent and cast the vote of the person or estate which he represents. An officer of a corporation designated and authorized by a resolution of the board of directors of the corporation may represent and cast the vote of the corporation.

(d) The general partner of a partnership in whose name title to property within the district is vested as a holder of title or evidence of title, and who is designated and authorized in writing by all of the general partners, may register and cast the vote of the partnership.

(e) The trustee of a trust, and the trustee who is designated and authorized in writing by all of the trustees of a trust in which there are more than one trustee, in whose name title to property within the district is vested as a holder of title or evidence of title, may register and cast the vote of the trust.

(Ord. No. 99-09-09.6A, § 4, 9-9-1999)

Sec. 10-23. - List of voters; notice to landowners.

The county clerk is requested to provide the required quantity of mail ballots for use in the special election. The county clerk shall prepare a list of qualified landowners within the district entitled to vote from the list of landowners provided by the county assessor. The list of landowners shall be marked indicating that the landowner has returned his ballot immediately upon receipt of such ballot. The county clerk will include in the mailing set forth in section 10-22 a printed notice to the voters, informing the voters that they may return the voted ballot by mail or by otherwise delivering the ballot to the clerk's office. The county clerk is directed to publish notice of the special election in English and in Spanish once a week for two consecutive weeks prior to the special election in a newspaper of general circulation within the county and within the improvement district, in substantially the following form:

FORM OF NOTICE OF SPECIAL ELECTION

NOTICE OF IMPROVEMENT DISTRICT PROPERTY TAX AND GENERAL OBLIGATION LIMITED TAX IMPROVEMENT DISTRICT BONDS SPECIAL ELECTION TO BE HELD BY MAIL BALLOT ELECTION [INSERT NAME OF DISTRICT]

PURSUANT TO SANDOVAL COUNTY, NEW MEXICO ORDINANCE NO._____, NOTICE IS HEREBY GIVEN that a Special Election be held pursuant to the Mail Ballot Election Act, NMSA 1978, §§ 1-23-1 through 1-23-7, within Sandoval County, New Mexico (the "County") within the [_____/_____/_____] Improvement District (the "District") on _____/_____/_____ at which time the qualified Landowners within the District will vote on the questions of whether to authorize the Board of County Commissioners to impose the Improvement District Property Tax and whether to authorize the issuance of General Obligation Limited Tax Improvement District Bonds (the "Bonds") on behalf of the District to provide funds to acquire certain improvements [Insert details of the Improvements] (collectively, the "Improvements"). The Special Election shall be conducted in accordance with the Legal Lot System of Voting which provides that the

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results of the Special Election will be determined by a vote of fifty-one percent (51%) of the number of Legal Lots represented by the votes cast at the Special Election. The questions to be presented at the Special Election are:

(1) Shall Sandoval County, New Mexico be authorized to impose an improvement district property tax pursuant to NMSA 1978, § 4-55A-12.1, at a rate not to exceed _____ dollars ($_____) per one thousand dollars ($1,000.00) of net taxable value of real property (which property is only a portion of the real property located within the District) located within the [Insert name of District] Improvement District subject to property taxation as described in the legal description set forth below:

Legal Description:

[INSERT LEGAL DESCRIPTION]

FOR THE IMPROVEMENT DISTRICT PROPERTY TAX AGAINST THE IMPROVEMENT DISTRICT PROPERTY TAX

(2) Shall Sandoval County, New Mexico be authorized to issue its general obligation limited tax improvement district bonds, in one or more series, in an aggregate principal amount not to exceed _____ dollars ($_____) (the "Bonds"), payable solely from the improvement district property tax, for the purpose of securing funds for the acquisition of certain improvements [Insert Improvement Details] by the [Insert name of the District] Improvement District, to pay capitalized interest, fund a debt service reserve fund, if required, and to pay certain administrative expenses and expenses incidental to the issuance and sale of the Bonds, all such improvements to be located within the [Insert name of District] Improvement District within the County?

FOR THE GENERAL OBLIGATION LIMITED TAX IMPROVEMENT DISTRICT BONDS AGAINST THE GENERAL OBLIGATION LIMITED TAX IMPROVEMENT DISTRICT BONDS

(Ord. No. 99-09-09.6A, § 5, 9-9-1999)

Sec. 10-24. - List of landowners; notice to landowners.

The county clerk shall provide the required quantity of mail ballots for use in the special election. The county clerk shall prepare a list of landowners within the district entitled to vote from the list of landowners provided by the county assessor. The list of landowners shall be marked indicating that the landowner has returned his ballot immediately upon receipt of such ballot.

(Ord. No. 99-09-09.6A, § 6, 9-9-1999)

Sec. 10-25. - Manner of marking ballot; determining right to vote.

(a) The landowner shall indicate he is for or against a question by marking in the space indicated on the ballot.

(b) The right of a person to vote may be challenged in accordance with state law.

(Ord. No. 99-09-09.6A, § 7, 9-9-1999)

Sec. 10-26. - Determination of election result.

A majority of the legal lots as represented by the votes cast at the special election shall determine the result of the special election on the questions presented.

(Ord. No. 99-09-09.6A, § 8, 9-9-1999)

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Sec. 10-27. - Owners of property for voting purposes; voting by corporations or other entities.

(a) Legal lots shall be voted by the owner of the recorded title thereto is shown on the records maintained by the county assessor.

(b) Legal lots standing in the name of a corporation, partnership, limited liability company, trust or other legal entity may be voted by an officer, general partner, manager, member, trustee, or other person, designated by appropriate action of the entity.

(Ord. No. 99-09-09.6A, § 9, 9-9-1999)

FOOTNOTE(S):

--- (**1**) ---

State Law reference— Public improvement districts, NMSA 1978, § 4-55A-1 et seq. (Back)

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Chapter 11 - RESERVED

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Chapter 12 - EMERGENCY SERVICES [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - ALARM CONTROL

FOOTNOTE(S):

--- (**1**) ---

State Law reference— Emergency medical services, NMSA 1978, § 24-10B-1 et seq.; enhanced 911 requirements, 10 NMAC 6.2.1 et seq. (Back)

ARTICLE I. - IN GENERAL

Sec. 12-1. - Title.

Sec. 12-2. - Purpose.

Sec. 12-3. - Definitions.

Sec. 12-4. - County emergency services board.

Secs. 12-5—12-26. - Reserved.

Sec. 12-1. - Title.

This chapter may be cited as the "emergency services act" and shall replace and effectively repeal all other ordinances and resolutions in the county establishing the emergency services council, the fire and emergency medical services committee or any other group previously appointed by the county commission to advise or govern on matters related to fire and emergency services.

(Ord. No. 89-04-05A, § 1, 4-5-1989)

Sec. 12-2. - Purpose.

The purpose of the emergency services act is to provide for the creation of a fire services and emergency medical services board named the county emergency services board; to promote system development; and to organize, monitor and coordinate fire and emergency medical services in the county. It is the intent of the county commission that this board's areas of governance shall include, but not be limited to, coordination of mutual aid or joint powers agreements, improved training availability, access to funding information and other resource development, establishment of standards, and recommendations on budget and hiring.

(Ord. No. 89-04-05A, § 2, 4-5-1989)

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Sec. 12-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency means any active fire department, ambulance service or combination or both located in the county and authorized by the state fire marshal's office, the state corporation commission or the state emergency services bureau.

Board means the county emergency services board.

Commission means the board of commissioners of the county.

Emergency medical services means the services rendered by emergency services personnel to the perceived needs for immediate medical care in order to prevent loss of life or aggravation of physical or psychological illness or injury.

Fire services means the services rendered by fire services personnel to prevent injury, loss of life, and damage to or loss of property.

(Ord. No. 89-04-05A, § 3, 4-5-1989)

Sec. 12-4. - County emergency services board.

(a) *Title.* There is hereby created a county emergency services board, hereafter called the "board," which shall consist of all agencies which meet the criteria as defined in section 12-3

(b) *Members.* Each agency shall appoint one member and two alternates to the board. Members must be active within the agency that they represent.

(c) *Terms.* Each board member shall serve terms of two years; the terms of office shall be staggered to provide continuity. At the first meeting, the board members shall draw by lot as to the initial terms of office. One-half of the board shall have an initial term of only one year. At the end of any member's term, the vacancy may be filled by reappointment of an individual or appointment of a new individual from the member agency.

(d) *Chairperson, vice-chairperson and secretary.* The board shall elect its own chairperson from among its members. The chairperson shall serve one year. The chairperson shall vote only in cases of a tie as a member of the board. The board shall be set forth in the board's bylaws.

(e) *Powers and duties.*

(1) The board shall promulgate bylaws to govern itself and administer an operational budget subject to approval by the county commission.

(2) The board shall establish and enforce policies, standards rules and regulations to organize, monitor and coordinate fire services and emergency medical services to ensure citizen access to such services.

(3) Decisions made by the board may be appealed to the commission as set forth in bylaws, rules or regulations developed by the board.

(4) Budgets and/or grant applications for fire and EMS services shall be reviewed and recommendations made to the commission.

(5) The board, with input from the fire services committee and the medical services committee as established in subsection (e)(8) of this section, shall review and make recommendations involving personnel matters that affect the county as a whole as provided in the board's bylaws.

(6) The board shall conduct monthly meetings at a designated place and time. Special meetings may be called by the chairperson or by consent of three of the regular members with 48 hours' notice by phone to the membership, as well as to the county manager's office, and a written posting at the county courthouse.

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(7) The board shall provide monthly reports to the commission.

(8) The board shall appoint standing committees which shall be in an advisory capacity to the board. The first three committees to be appointed shall be the medical services committee, the fire services committee, and the local emergency planning committee.

(9) All business of other county boards that impact fire and emergency medical services shall be referred to the emergency services board for review and recommendations.

(10) Enforcement. The board shall enforce policies, procedures and standards to individual agencies. Agencies who fail to comply with the board's policies, procedures and/or standards will be subject to any or all of the following actions by vote of the board:

a. Reduction or removal of county generated funds.

b. Notification of future reduction or removal of county liability coverage.

c. Removal of mutual aid agreements.

(Ord. No. 89-04-05A, § 4, 4-5-1989)

Secs. 12-5—12-26. - Reserved.

ARTICLE II. - ALARM CONTROL

Sec. 12-27. - Standard policies.

Sec. 12-28. - Enforcement of penalty.

Sec. 12-29. - Alarm responses.

Sec. 12-30. - False alarm.

Sec. 12-31. - Fees.

Sec. 12-27. - Standard policies.

(a) Persons who are owners or tenants of a dwelling or owners of a business are encouraged to install or have installed any type of alarm that notifies another of attempted entry or entry of an unauthorized source.

(b) Those persons having such alarms are required to have a private sector entity or agency that monitors and in turn notifies the county sheriff's department.

(c) It is the person's responsibility to ensure that the county sheriff's department has exact and specific directions or instructions, available to the county sheriff's department from the monitoring agency, to ensure the exact location can be found.

(Ord. No. 61190, § 1, 6-11-1990)

Sec. 12-28. - Enforcement of penalty.

The county sheriff's department will bill the person as described in section 12-30(b), and include proper documentation of other responses.

(Ord. No. 61190, § V, 6-11-1990)

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Sec. 12-29. - Alarm responses.

(a) It shall be considered reasonable for the county sheriff's department to respond to any alarm within its jurisdiction, without a fee or questions, three times within one month. The term "month" means the first day of each month to the last as defined in a calendar year.

(b) The sheriff's department will respond to any amount of valid (actual) alarms within a month, without a charge. A valid alarm is considered an alarm activation where entry or attempted entry was made with physical evidence present or witnessed.

(c) After responding to three alarms within one month which the sheriff's department determines to be of a false nature, the sheriff's department will post notice on a visible entry part of the premises addressed to the reputed owner or tenant and will send a letter of notification, when feasible, to the reputed party having a false alarm on the third time within a month, stating a fee is pending on any additional alarm activations during that month, in accordance with the provisions of this article.

(Ord. No. 61190, § II, 6-11-1990)

Sec. 12-30. - False alarm.

(a) It shall be considered unreasonable for the county sheriff's department to respond to any alarm within its jurisdiction without a fee where more than three false alarm responses have been made within a month as defined in section 2-29.

(b) When more than three false alarms at the same location have been received, the county sheriff's department will still respond as normal. If determined no perpetrator is located or no attempts to enter are found, it will be considered a false alarm. A fee of $50.00 will then be billed to the owner or tenant of the dwelling or owner of a business. Any continuous false alarms within one month shall each be billed at $50.00, not to exceed $250.00 a month.

(Ord. No. 61190, § III, 6-11-1990)

Sec. 12-31. - Fees.

(a) The fee charged by the sheriff's department and received shall be accounted for, transferred or deposited in the county general fund.

(b) The sheriff's department will keep a record of responses to alarms, warning notifications and false alarms.

(Ord. No. 61190, § IV, 6-11-1990)

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Chapter 13 - RESERVED

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Chapter 14 - ENVIRONMENT

ARTICLE I. - IN GENERAL

ARTICLE II. - NUISANCES

ARTICLE I. - IN GENERAL

Secs. 14-1—14-18. - Reserved.

Secs. 14-1—14-18. - Reserved.

ARTICLE II. - NUISANCES

Sec. 14-19. - Definitions.

Sec. 14-20. - Penalty.

Sec. 14-21. - Exterior premises—Vacant land; maintenance standards.

Sec. 14-22. - Same—Storage of inoperable or abandoned vehicles.

Sec. 14-23. - Same—Antilitter.

Sec. 14-24. - Dumping, accumulating and scattering of solid waste.

Sec. 14-25. - Burning of garbage.

Sec. 14-26. - Public nuisance.

Sec. 14-27. - Nuisance declared.

Sec. 14-28. - Notice of nuisance.

Sec. 14-29. - Complaint.

Sec. 14-30. - Removal of nuisance.

Sec. 14-31. - Injunction.

Sec. 14-32. - Injunctive relief.

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Sec. 14-19. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned vehicle means a motor vehicle which has remained for more than 48 hours in the condition described by one of the following:

(1) Without license plates or temporary registration conspicuously displayed thereon; or

(2) With license plates which have an expiration date more than 90 days prior to the date of inspection.

Blight or *blighted* means unsightly conditions, including, but not limited to, the accumulation of debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is

dead, characterized by uncontrolled growth or lack of maintenance, or is damaged; and any other similar conditions of disrepair and deterioration, regardless of other properties in the area.

Commercial solid waste contractor.

(1) The term "commercial solid waste contractor" means any person transporting solid waste for hire by whatever approved means for the purpose of transfer, processing, storing or disposing of the solid waste in a solid waste facility.

(2) The term "commercial solid waste contractor" does not include an individual transporting solid waste generated on or from one's residential premises for the purpose of disposing of it in a solid waste facility.

Construction and demolition (C&D) debris.

(1) The term "construction and demolition (C&D) debris" means materials generally considered water insoluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt, roofing materials, pipe, gypsum wallboard and lumber from the construction or destruction of a structure, and includes rocks, soil, tree remains, trees and other vegetative matter that normally results from land clearing.

(2) If debris is mixed with any other types of solid waste, it loses its classification as C&D debris.

(3) Construction and demolition debris does not include asbestos or liquids, including, but not limited to, waste paints, solvents, sealers, adhesives or potentially hazardous materials.

County manager means the county manager or designated representative.

Debris means any substance of little or no apparent economic value, including, but not limited to, deteriorated lumber, old newspapers, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, car parts, abandoned or neglected equipment, or the scattered remains of items.

Deterioration means the condition or appearance of a building or structure, or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect, or lack of maintenance.

Dispose or *disposal* means the causing, allowing, or maintaining the abandonment, discharge, deposit, placement, injection, dumping, spilling, or leaking of any solid waste into or on any land or water.

Exposed to public view means any premises or any building, or any part thereof, which may be lawfully viewed by the public or any member thereof from the sidewalk, street, alleyway, or open-air parking lot, or from any adjoining or neighboring premises.

Fire hazard means any thing or act which may increase or may cause any increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by the fire marshal's office, or which may obstruct, delay or hinder the prevention, suppression or extinguishments of fire.

Garbage means animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

Health hazard means the presence of any items which adversely impact or jeopardize the well-being or health of an individual. Such items include human waste, medical or biological waste, sharp objects, gas use or combustible liquids, radioactive waste, dangerous or corrosive chemicals or liquids, flammable or explosive materials, asbestos, offal and decayed matter.

Household waste means any solid waste, including garbage and trash derived from households, including single and multiple residences, domiciles, campgrounds, picnic grounds and day-use recreation areas.

Infestation means the apparent presence of unpleasant, damaging or unhealthy insects, rodents, reptiles or pests.

Inoperable vehicle means any motor vehicle that by reason of dismantling, disrepair or other reasons is incapable of being propelled under its own power.

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Litter means decaying or nondecaying solid or semisolid waste, including, but not limited to, both combustible or noncombustible waste, such as paper, trash, cardboard, waste material, cans, yard clippings, wood, glass, bedding, discarded appliances, discarded furniture, dry vegetation, dead or diseased trees, and piles of earth mixed with any of the above foreign objects, including inoperable vehicles.

Lot means a parcel or tract of land, platted or placed on the county clerk's record in accordance with applicable laws and ordinances, generally as a portion of a subdivision intended for development purposes, including public rights-of-way.

Open burning means the combustion of solid waste without:

(1) Control of combustion air to maintain adequate temperature for efficient combustion;

(2) Containment of the combustion reaction in an enclosed device to provide sufficient time and mixing for complete combustion; and

(3) Control of the emission of the combustion products.

Owner means the property owner, whether or not residing on said premises.

Person means any natural person or any firm, partnership, association, corporation, company, or organization of any kind.

Premises means an improved or unimproved structure, designed for private or commercial use.

Public nuisance means creating, performing or maintaining any thing without lawful authority that may affect any citizen which is either injurious to public health, safety or welfare, or interferes with the exercise or enjoyment of a public right, including the right to use public property.

Public place means any land owned by the community (or open to common use) such as streets, sidewalks, boulevards, alleys, arroyos or other public ways and any and all public parks, spaces, grounds and buildings.

Refuse means, but is not limited to, all solid waste including ashes, wastes or unwholesome material or any kind, street cleanings, dead animals, abandoned motor vehicles, vehicle parts and solid market and industrial waste.

Responsible party means the owner of any premises, whether vacant, improved or unimproved, used primarily for either residential, private or business purposes.

Rubbish means and includes, but is not limited to, all solid wastes, both combustible and noncombustible, such as paper, cardboard, cans, wood, yard clippings, leaves, dirt, glass, bedding, crockery, and similar materials.

Site means a lot or combination of lots held in single ownership and requiring solid waste collection service. If several adjacent lots are owned by a developer at the time of building permit issuance, they will be considered separate sites.

Solid waste means, but is not limited to, any garbage, litter, refuse, rubbish, special waste, appliances, inoperable vehicles and other discarded materials originating from residential, business or industrial sources.

Storage means the accumulation of solid waste for the purpose of processing or disposal.

Structure means a structure at least six feet in height and tall enough to eliminate the public's view, including neighbors, of the interior and meets all applicable building codes.

Yard refuse means vegetative matter resulting from landscaping, land maintenance and land clearing operations.

Zoning ordinance means the current county zoning ordinances, found in appendix A to this Code.

(Ord. No. 03-11-16.16A, § 1, 11-16-2003)

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Sec. 14-20. - Penalty.

(a) Any person convicted of a violation of the provisions of this article or any regulation promulgated hereunder shall be guilty of a misdemeanor and shall be subject to a penalty up to the maximum penalty allowed by state statute. Each day such violation is committed or permitted to continue shall be considered a separate offense and shall be punished as such.

(b) The director of county planning and zoning or his designee and the code enforcement officers shall enforce this article, as shall deputies of the county sheriff's department. Such enforcement shall include the inspection of premises, the issuance of violations and the issuance of citations.

(c) It shall be unlawful and a violation of this article for the owner, builder, agent, lessee or occupant of any lot within the described area of the county to allow solid waste or debris to accumulate upon such property or to allow materials to accumulate and in any way become hazardous or injurious to public health or to obstruct pedestrian or vehicular traffic. Any responsible party who causes, permits, facilitates or aids or abets any violation of any provision of this article shall be subject to enforcement as stated herein.

(d) Any person violating the provisions of this article may be issued a notice of violation or a citation to magistrate court.

(Ord. No. 03-11-16.16A, § 13, 11-16-2003)

Sec. 14-21. - Exterior premises—Vacant land; maintenance standards.

(a) *General land.* All land, including exterior premises and vacant land, whether improved or unimproved, shall be maintained free from any accumulation of debris or blight, which includes, but is not limited to, graffiti on walls, fences or mail boxes, accumulation of litter, rubbish, refuse, waste material, bottles, paper, glass, cans, organic or inorganic material, inoperable or disabled vehicles, piles of mixed material, dry vegetation, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, lumber not neatly piled, lumber stored in front yards, scrap iron, tin and other metal not neatly piled, or anything whatsoever in which insects, rodents, snakes or other harmful pests may live, breed or multiply or which may otherwise create a health hazard.

(b) *Stored materials.* It shall be unlawful to accumulate and store building material, lumber, boxes, cartons or other containers, machinery, scrap metal, junk, raw material, fabricated goods and other items in such manner as to constitute a public nuisance or rodent harborage.

(c) *Exterior insect, rodent and animal control.* All premises shall be kept free from insect and rodent infestation and other noxious pests. This provision shall not require action to disturb the natural activity of bees, rabbits, or other insects and animals where such activity is not a danger or nuisance to any residents of the area and where other applicable legal requirements are met.

(d) *Drainage.* All premises shall be maintained so as to prevent the accumulation of stagnant water when such water causes a hazardous or unhealthy condition or becomes a breeding area for insects.

(Ord. No. 03-11-16.16A, § 2, 11-16-2003)

Sec. 14-22. - Same—Storage of inoperable or abandoned vehicles.

(a) Outdoor storage of inoperable or abandoned vehicles or parts thereof on the premises is prohibited. Inoperable or abandoned vehicles may only be stored on the premises within a building or enclosure so as not to be visible from any adjoining property or public road. Vehicles shall not be used for storage or other purposes unless enclosed within a building or solid fence on the premises.

(b) Exceptions.

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(1) This section shall not apply in an area where such activity is within the contemplated purposes of a duly licensed business with the appropriate zoning, or where such vehicles are kept in an enclosed structure, or when vehicles are owned and actively being restored if within the last 30 days the owner has spent at least ten hours of labor in repairing, rebuilding or reconstruction of a motor vehicle. The burden shall be on the owner of the vehicle to prove that it is being actively restored, which may include receipts for the purchase of parts and supplies during the last 30 days which have been installed on the vehicle.

(2) Any person, being owner or tenant, may store, permit to be stored or allow to remain upon his residential premises any dismantled, partially dismantled or inoperative motor vehicle, or parts thereof, for a period not to exceed one month, if such motor vehicle is registered in the resident's name.

(3) One inoperable or abandoned vehicle may be stored upon property within the county when not within a wholly enclosed structure, if fully covered and placed in the side or back yard. Any such vehicle must be at least five feet from any property line and at least five feet from any permanent structure.

(c) Extension. Any person violating this section may, in the event of hardship, request an extension of this article's compliance period by a written request to the planning and zoning director or his designee.

(d) This section shall not be construed to permit the parking or placement of inoperable or abandoned motor vehicles on any public street. Placement of inoperable or abandoned vehicles on any public street is subject to enforcement by the county sheriff's department or by the county planning and zoning department.

(Ord. No. 03-11-16.16A, § 3, 11-16-2003)

Sec. 14-23. - Same—Antilitter.

(a) *Litter in public places.* No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the area except in public receptacles, which are approved for collection or at a state approved sanitary landfill.

(b) *Placement of litter in receptacles so as to prevent scattering.* Persons placing litter in public receptacles or in authorized private receptacles shall do so in such manner as to prevent it from being carried or deposited by the elements or by animals upon any public or private place. Receptacles shall not be placed or positioned in a manner which may constitute a public nuisance or obstruction.

(c) *Unlawful dumping or disposal of solid waste.* It shall be unlawful to dispose of solid waste in any manner other than as specified section in 14-24

(1) *Unlawful to dump in arroyo, stream, bed, drainage ditch, fountains or body of water.* It shall be unlawful for any person to place or dump solid waste or debris in any arroyo, stream bed, drainage ditch, public fountain or any public body of water within the boundaries of the county.

(2) *Dumping on property.* It shall be unlawful for any person to place or dump solid waste or debris on any property within the county, whether owned by such person or not.

(3) *Securing vacant lots.* Vacant lots or lands which have been the subject of repeated dumping shall be secured to prevent future occurrences of dumping. Methods of securing vacant lots or lands must be approved and may include permanent fencing, ditch or berm, or placement of four-foot-high posts at four-foot intervals. Signs stating "No Dumping" shall be erected in accordance with applicable ordinances on vacant lands which have been subject to dumping on more than one occasion.

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(d) *Transportation of solid waste.* No person shall drive or move any vehicle within the county that has been loaded with solid waste unless such solid waste is covered or securely loaded in such a manner to prevent littering.

(Ord. No. 03-11-16.16A, § 4, 11-16-2003)

Sec. 14-24. - Dumping, accumulating and scattering of solid waste.

(a) *Dumping.* No person shall discard solid waste anywhere outdoors within the boundaries of this area except at a time and place approved for collection of that person's solid waste. No person shall place solid waste in the solid waste receptacle of another person without permission.

(b) *Unauthorized accumulation.* It shall be unlawful to allow any solid waste to collect or accumulate on any lot or other premises within the area. Any such unauthorized accumulation or collection is hereby declared to be a nuisance and is prohibited.

(c) *Scattering of solid waste.* No person shall cast, place, sweep, or deposit anywhere in the area any solid waste in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, parkway, sewer, ditch, arroyo, other public place, vacant lot, or into any premises within the county.

(d) *Accumulation of C&D debris.* Debris resulting from construction or demolition of structures may be collected within an active construction site if and only if the solid waste is contained in such a manner that it will not be carried or deposited by the elements upon any street, sidewalk, parkway, sewer, ditch, arroyo, other public place, vacant lot, or into any premises within the county.

(e) *Burden of proof.* In the event any person's name or other identification is affixed or found on any illegally disposed of solid waste or rubbish, such evidence shall constitute prima facie evidence and presumptive proof of a violation of this article; the burden of proof to establish a nonviolation of this article shall be on such person.

(f) *Accumulation for recycling.* Notwithstanding other provisions of this article, any person may accumulate and collect recyclable materials for the purpose of recycling it, provided that any collection point:

(1) Conforms to zoning articles and regulations;

(2) Is not on public right-of-way;

(3) Is constructed so that the rubbish is contained at the collection point in compliance with subsection (d) of this section;

(4) Is shielded from public view; and

(5) Is registered with or permitted by NMED as a recycling facility.

(g) *Notice of violation.* Any such person who violates any provisions of this article shall be issued a notice of violation. If the person fails to remedy violation within the specified time, then the county will require corrective action be started at the site immediately at the expense of the owner, and charge a lien on the property if payment is not received within 30 days of receipt of billing.

(h) *Urgent work.* If, in the judgment of the county manager or his designee, safety or public health is at risk, or the public interest requires that a site be cleaned rapidly, the county may require the owner to employ sufficient manpower supplied by the owner to clean the site within 24 hours. If the person fails to remedy the violation within the specified time, then the county will require corrective action be started at the site immediately, at the expense of the owner, and may place a lien on the property to recover the actual cleanup costs.

(i) *Inspection.* The county manager or his designee may make such inspections as are reasonably necessary in the enforcement of this section.

(Ord. No. 03-11-16.16A, § 5, 11-16-2003)

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Sec. 14-25. - Burning of garbage.

No garbage, solid waste, or debris shall be burned within the county. Fire permits may be obtained by the county fire marshal's office for certain types of yard refuse.

(Ord. No. 03-11-16.16A, § 6, 11-16-2003)

Sec. 14-26. - Public nuisance.

It is unlawful to commit a public nuisance. The term "public nuisance" consists of knowingly creating, performing, or maintaining anything affecting any number of citizens without lawful authority which is either injurious to public health, safety, morals, or welfare, or interferes with the exercise and enjoyment of public rights, including the right to use public property.

(Ord. No. 03-11-16.16A, § 7, 11-16-2003)

Sec. 14-27. - Nuisance declared.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dismantled or partially dismantled vehicle means any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.

Inoperative or inoperable motor vehicle means any motor vehicle which, by reason of dismantling, disrepair, or other cause, is incapable of being propelled under its own power.

Motor vehicle means any wheeled vehicle which is self-propelled or intended to be self-propelled.

(b) *Prohibited accumulations.* In the interest of the inhabitants of the area, it is necessary to prohibit the accumulation of junk, trash, and refuse on property within the area by declaring such accumulation a nuisance. The following are hereby declared to be a public nuisance:

(1) *Unoccupied premises.* It shall be unlawful for any reason for any person to sweep, place, or throw solid waste or other waste materials in or upon any sidewalk, street, alley, or unoccupied premises.

(2) *Unsanitary premises.* It shall be unlawful for any person to permit or cause to remain in or about his premises any solid waste, weeds, motor vehicles not in operating condition, wastewater or any conglomeration of residue thereof which emits odors or serves as a feeding or breeding place for flies, insects or rodents. The accumulation of building materials, pipes, lumber, or boxes may be maintained on said premises if said accumulation is evenly piled and stacked for a reasonable length of time.

(3) *Hazardous premises.* It shall be unlawful for any person to permit in or about his premises weeds, briars, brush, or any other solid waste to become in any way hazardous or injurious to public health or to obstruct pedestrian and vehicular traffic.

(4) *Obstruction of fire protection equipment.* No person shall place or keep any post, fence, vehicle, growth, trash storage, or other material or thing near any fire hydrant, fire department connection or fire protection system control valve that would prevent such equipment or hydrant from being immediately discernible or in any other manner deter or hinder the firefighters from gaining immediate access to said equipment or hydrant.

(5) *Accumulation of solid waste.*

a. It shall be unlawful for any person to allow any solid waste to accumulate upon premises owned, leased, rented or occupied by him during intervals between collection thereof, except in the manner herein provided.

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b. It shall be unlawful to deposit any solid waste in or upon the streets, alleys, sidewalks, gutters, curbing, storm sewers, parkways, or vacant lots within the area except in the manner and in the receptacles or containers as provided in subsection (b)(6) of this section.

(6) *Solid waste receptacles.* All solid waste receptacles shall be maintained in a clean and sanitary condition by the owner or person using the receptacle and such receptacles shall be located only in such places as shall be readily accessible for removing and emptying the same, but shall not be placed in such place or position as may constitute a nuisance or obstruction to vehicular or pedestrian traffic.

(7) *Outdoor vehicle storage; prohibited acts; exceptions.*

a. It is unlawful for any person, firm or corporation to store on, place on, or permit to be stored or placed on, or allowed to remain on any occupied or unoccupied land within the area limits, a dismantled, partially dismantled, not properly registered, or inoperative motor vehicle, or any parts of a motor vehicle, except in businesses and are kept in a wholly enclosed garage or structure.

b. Exceptions. Any person, being owner or tenant, may store, permit to be stored or allow to remain upon his premises any dismantled, partially dismantled, or inoperative motor vehicles, or parts thereof, for a period not to exceed one week if such motor vehicle is registered in his name, provided that any such owner or tenant may, in the event of hardship, secure permission from the county to extend such period of time.

(c) *Applicability of section; parking of dismantled, inoperable vehicles restricted.* This section shall be construed as being supplementary to any sections of this article relating to rubbish, litter, or refuse, and shall not be construed to permit the parking or placing of dismantled, partially dismantled, or inoperable motor vehicles on any public street.

(Ord. No. 03-11-16.16A, § 8, 11-16-2003)

Sec. 14-28. - Notice of nuisance.

Any county sheriff's officer, upon observing any violation of this article, shall issue a notice directed to the owner of record of the property on which the nuisance occurs, or to the occupant or tenant of the property, or both. The notice shall describe the violation and shall establish a reasonable time limit for abatement thereof by the owner occupant or tenants, which limit shall be not less than two days or more than 30 days after service of the notice. The notice may be served either personally or by registered mail at the owner's or occupant's last known address.

(Ord. No. 03-11-16.16A, § 9, 11-16-2003)

Sec. 14-29. - Complaint.

In the event the owner or occupant of the property where the nuisance violation of this article exists has failed, within the prescribed time, to abate the nuisance, then any law enforcement police officer shall file a compliant charging violation of this article with the magistrate court demanding that the owner of the property, or the occupant thereof, or both, be held to answer to the court for the violation of this article.

(Ord. No. 03-11-16.16A, § 10, 11-16-2003)

Sec. 14-30. - Removal of nuisance.

In the event that a person is convicted of violating this article and still refuses to remove the junk, trash or refuse, the county may enforce this article in any manner consistent with law. Should the person refuse or fail to pay the assessment, the county shall collect such assessment as provided by law.

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(Ord. No. 03-11-16.16A, § 11, 11-16-2003)

Sec. 14-31. - Injunction.

The county sheriff, when a nuisance exists as set forth in this article, may maintain a complaint in the name of the county, perpetually, to enjoin all persons from maintaining or permitting the nuisance and to abate the same.

(Ord. No. 03-11-16.16A, § 12, 11-16-2003)

Sec. 14-32. - Injunctive relief.

The placement of solid waste which causes a nuisance or creates a potential or actual health hazard shall be deemed, or declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. 03-11-16.16A, § 14, 11-16-2003)

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Chapter 15 - RESERVED

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Chapter 16 - FIRE PREVENTION

ARTICLE I. - IN GENERAL

ARTICLE II. - FIRE DEPARTMENT

ARTICLE III. - FIREWORKS

ARTICLE I. - IN GENERAL

Sec. 16-1. - Fire code adopted.

Secs. 16-2—16-20. - Reserved.

Sec. 16-1. - Fire code adopted.

The 2003 International Fire Code hereby is adopted by reference for all structures within the unincorporated area of the county.

(Ord. No. 05-12-08.12A, § 1, 12-8-2005)

Secs. 16-2—16-20. - Reserved.

ARTICLE II. - FIRE DEPARTMENT

Sec. 16-21. - Title.

Sec. 16-22. - Repealer.

Sec. 16-23. - Purpose.

Sec. 16-24. - Definitions.

Sec. 16-25. - Agreements with other governmental entities.

Sec. 16-26. - Policy.

Sec. 16-27. - Cooperation with private, nonprofit, auxiliary organizations.

Sec. 16-28. - Responsibilities and authority of the chief.

Sec. 16-29. - Responsibilities and authorities of the district chief.

Sec. 16-30. - Responsibilities and authorities of other department personnel.

Sec. 16-31. - Recruitment, application, training, performance and retention of personnel.

Sec. 16-32. - Procedure for adoption of department rules and regulations.

Sec. 16-33. - Medical control.

Secs. 16-34—16-54. - Reserved.

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Sec. 16-21. - Title.

This article may be cited by number or as the "Sandoval County Fire and Emergency Services Administrative Ordinance."

(Ord. No. 05-03-03.8A, § 1, 3-3-2005)

Sec. 16-22. - Repealer.

Any other ordinance in conflict with this article is hereby repealed to the extent of such conflict.

(Ord. No. 05-03-03.8A, § 2, 3-3-2005)

Sec. 16-23. - Purpose.

(a) The purposes of this article are:

(1) To provide for the administration of the county fire department, including individual fire districts, including both paid and volunteer personnel;

(2) To assign responsibilities for coordinated fire prevention, fire suppression, emergency medical services, and other emergency services, including, but not limited to, mutual aid and cooperation with fire departments or other emergency services of government; and

(3) To establish policy for implementation of fire department and emergency services plans and programs and promulgation of rules, regulations, medical protocols and standard operating procedures for the operation of the department, including personnel rules and regulations for both paid and volunteer personnel.

(b) The organization, administration and operation of the county fire department is herein established and governed by the county board of county commissioners through the office of the chief of the fire department.

(Ord. No. 05-03-03.8A, § 3, 3-3-2005)

Sec. 16-24. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief means the county fire department chief.

District chief means a volunteer duly elected by the membership of the fire district who is responsible for the day-to-day operational activities of the fire district's county-owned stations, apparatus, equipment and supervision of the volunteer personnel.

Fire districts. The county has eight volunteer fire districts:

(1) Algodones;

(2) La Cueva;

(3) La Madera;

(4) Pena Blanca;

(5) Ponderosa;

(6) Placitas;

(7) Regina; and

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(8) Zia.

Other districts may be added from time to time as deemed necessary without amendment of this article.

Sandoval County Chief's Association means an association composed inclusive of all the fire districts' volunteer fire chiefs from the unincorporated regions of the county.

(Ord. No. 05-03-03.8A, § 4, 3-3-2005)

Sec. 16-25. - Agreements with other governmental entities.

Joint resolutions, memoranda of understanding, joint powers agreements and mutual aid agreements between the county and other units of government pertaining to fire prevention, fire suppression, emergency medical services and other emergency services, as well as dispatching of the same, now in force or being adopted subsequent to passage of the ordinance from which this article is derived, are hereby expressly authorized when drawn or made in conformity to the intent and meaning of this article and upon approval by the county commission.

(Ord. No. 05-03-03.8A, § 5, 3-3-2005)

Sec. 16-26. - Policy.

(a) The quality of life of the citizens of the county is enhanced by the vigorous administration of effective fire prevention, fire suppression, emergency medical services and other emergency services administered by the county.

(b) The county fire department is organized through the combined efforts of fire district volunteers and employees to deliver quality emergency services to the citizens of the county.

(c) Providing these services is consistent with the constitutionally prescribed functions of government to provide for the health, safety and welfare of the general public.

(d) It is the policy of the county to provide staffing, funding and equipment for the county fire department and its individual fire districts within available resources consistent with the standards of local, state and national authorities.

(e) The county fire department is administered through the chief of the department, who is responsible for monitoring, overseeing, directing and coordinating all activities of the fire department. The chief shall work in cooperation with each district chief to monitor, oversee, direct and coordinate the activities of each fire district. Those fire district boundaries presently existing are hereby ratified, subject to the continued power of the board of county commissioners to change such boundaries in the future. Other fire districts may be added as deemed necessary without amendment of this article.

(f) The county recognizes that some private, nonprofit corporations perform useful functions in support of the fire department and volunteer fire districts. Private corporations have no authority to manage the operations of the department, or any part thereof, including fire districts. The services provided by the county fire department are exclusively governmental activities.

(Ord. No. 05-03-03.8A, § 6, 3-3-2005)

Sec. 16-27. - Cooperation with private, nonprofit, auxiliary organizations.

(a) In consideration of the services provided by the private, nonprofit, auxiliary organizations in support of the county fire department, the chief, conferring with the district chiefs, is authorized to enter into agreements with such organizations to allow the use of fire stations by such organizations for meetings, fundraising and social events; provided that any fundraising activities clearly state that the funds raised are being paid to such organizations and are not being paid to, or under the control of, the county.

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(b) Such auxiliary organizations may also enter into agreements with the chief to perform other functions related to fire, life, property and public safety.

(Ord. No. 05-03-03.8A, § 7, 3-3-2005)

Sec. 16-28. - Responsibilities and authority of the chief.

(a) The chief of the county fire department shall be an employee of the county who oversees and directs the operation and administration of the department and reports directly to the county manager.

(b) All revenue sources characterized as public funds require commission approval prior to expenditure. As such, the commission has directed the chief to review any expenditure requested by a district chief. The chief, acting as the representative of the board of county commissioners, shall review such requests for compliance with all applicable statutes, ordinances, and rules and regulations.

(c) The chief, under the direction of the county manager and conferring with the Sandoval County Chief's Association, shall develop, maintain and upgrade standards, policies, procedures, department personnel rules and regulations and protocols to ensure that the mission of delivering emergency services is accomplished. These standards, policies, procedures, department personnel rules and regulations and protocols shall at all times be consistent with the safety and protection of all department personnel, both paid and volunteer. These standards, policies, procedures, department personnel rules and regulations and protocols will collectively serve as the minimum standard for the department.

(d) The chief shall be responsible for the maintenance and protection of those licenses and authorities held by the county, as required by state and federal regulators, for the delivery of emergency services and shall set forth the rules, regulations and reporting standards as required to maintain and protect those licenses and authorities.

(e) The chief, under the direction of the county manager and conferring with the Sandoval County Chief's Association, shall be responsible for staffing, recruitment, training, budgeting and all other administrative matters for the department and for the development and improvement of the department to meet local, state and federal standards.

(f) The chief shall be responsible for implementation and enforcement of fire and safety codes and any ordinance designating the fire department or the fire marshal as the enforcement agency as now in effect or hereafter adopted by the county.

(g) The chief, conferring with the district chief, is hereby authorized to commit fire department personnel, equipment and resources, wholly or in part, to emergency fire protection and emergency service delivery, including mutual aid, for the relief of danger to life or property from accident, explosion or natural disaster.

(h) The chief, conferring with the district chief, is authorized to enter into agreements, contracts and working arrangements with other units of government for implementing and administering the provisions of this article following approval of the county manager or the board of county commissioners as appropriate.

(i) The chief, under the direction of the county manager and conferring with the Sandoval County Chief's Association, shall promulgate departmental rules and regulations and shall enforce departmental rules and regulations for administering disciplinary action for both paid and volunteer personnel.

(j) The chief is authorized to arrange communications systems and networks necessary to adequately alert, dispatch and/or communicate with facilities, equipment and personnel within the county for the purpose of responding to fires, accidents, medical emergencies, explosions and natural disasters.

(k) The chief, under the direction of the county manager and conferring with the Sandoval County Chiefs' Association, shall establish through department personnel rules and regulations, job

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descriptions, an organizational chart and a process for the training and promotion of paid and volunteer personnel.

(Ord. No. 05-03-03.8A, § 8, 3-3-2005)

Sec. 16-29. - Responsibilities and authorities of the district chief.

(a) Each individual fire district shall have a district chief who shall be a volunteer duly elected by the membership of the fire district and who shall function as such at the pleasure of the chief and the board of county commissioners.

(b) The district chief is responsible for managing the day-to-day operational activities of the fire district county-owned stations, apparatus and equipment.

(c) The district chief shall be responsible for supervising assigned department volunteer personnel.

(d) The district chief shall be responsible for the expenditure of funds allocated to the fire district.

(e) No district chief shall have the authority to commit the county to the expenditure of any funds.

(Ord. No. 05-03-03.8A, § 9, 3-3-2005)

Sec. 16-30. - Responsibilities and authorities of other department personnel.

The chief shall have the power and authority to deputize willing district chiefs and other willing officers of the department to perform as official agents of the department, including the supervision of paid and volunteer personnel as may be deemed necessary for the protection of the health, welfare and safety of the residents of the county and for the enforcement of codes and ordinances.

(Ord. No. 05-03-03.8A, § 10, 3-3-2005)

Sec. 16-31. - Recruitment, application, training, performance and retention of personnel.

(a) The chief shall, in cooperation with the county personnel department and conferring with the Sandoval County Chief's Association, administer a volunteer retention program to develop standards for the recruitment, application, training, performance evaluation and promotion of volunteer personnel which are equal, in so far as feasible, between paid and volunteer personnel. The application of a prospective volunteer shall contain an acknowledgment and acceptance of the conditions of volunteer membership in the county fire department as contained in the rules and regulations.

(b) The chief shall, in cooperation with the county personnel department and conferring with the Sandoval County Chief's Association, develop standards for the recruitment, application, hiring, training, performance evaluation and promotion of department employees.

(c) Such standards shall be in conformance with applicable federal, state and county regulations and shall be set forth in the rules and regulations of the fire department following review of the county attorney and county manager.

(Ord. No. 05-03-03.8A, § 11, 3-3-2005)

Sec. 16-32. - Procedure for adoption of department rules and regulations.

(a) The chief, in conference with the Sandoval County Chief's Association, shall develop proposed department rules and regulations, as well as modifications to the department rules and regulations, for the fire department and fire districts after the final adoption of the ordinance from which this article is derived.

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(b) Proposed rules and regulations as well as modifications to the rules and regulations shall be made and forwarded to the county manager for review. The county manager will review the modifications and report findings to the board of county commissioners. The board of county commissioners shall, through resolution, approve or disapprove any and all rules and regulations.

(Ord. No. 05-03-03.8A, § 12, 3-3-2005)

Sec. 16-33. - Medical control.

All county fire department personnel responding to emergency medical service calls and/or providing patient care, regardless of level of training or education, shall do so only under the prior authorization and supervision of the county fire department medical director. The medical director shall have responsibility and authority, which includes medical protocols and medical dispatch procedures and protocols. Nothing in this section shall be construed to give the medical director authority to allocate funding.

(Ord. No. 05-03-03.8A, § 13, 3-3-2005)

Secs. 16-34—16-54. - Reserved.

ARTICLE III. - FIREWORKS

Sec. 16-55. - Title.

Sec. 16-56. - Definitions.

Sec. 16-57. - Permits for manufacturing, sale and discharge.

Sec. 16-58. - Permit; permit fee; restrictions; precautions.

Sec. 16-59. - Inspection.

Sec. 16-60. - Seizure or removal authority.

Sec. 16-55. - Title.

This article shall be known and be cited as the "Sandoval County Fireworks Ordinance."

(Ord. No. 85-08-01, § 1, 5-8-1985)

Sec. 16-56. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

County means the geographic area within the county and outside municipal limits or, depending on the context, the county government.

County clerk is the Sandoval County Clerk.

County commission is the Board of County Commissioners of Sandoval County, New Mexico.

County manager is the Sandoval County Manager, or other chief administrative officer of the county, and the appointed designee of the county manager.

Fireworks means any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy

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canes or toy guns in which explosives are used, firecrackers, torpedoes, sky-rockets, Roman candles, Daygo bombs, sparklers or other devices of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive substance, except that the term "fireworks" shall not include any auto flares, paper caps containing not in excess of an average of 0.25 of a grain of explosive content per cap and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times.

Permitted devices means safe and sane fireworks as described in section 16-57(g).

Permittee means a person or organization eligible to conduct a supervised public display of fireworks that is granted a permit by the county manager.

(Ord. No. 85-08-01, § 2, 5-8-1985)

Sec. 16-57. - Permits for manufacturing, sale and discharge.

(a) The manufacture of fireworks within the county is prohibited.

(b) Except as hereinafter provided, it shall be unlawful for any person to possess, store, to offer for sale, expose for sale, sell at retail or use or explode any fireworks within the county, except as specifically permitted by subsection (g) of this section, provided that the county commission shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays by a jurisdiction, fair associations, amusement parks, other organizations or for the use of fireworks by artisans in pursuit of their trade. Every such use or display shall be handled by a competent operator approved by the county manager and shall be of such character and so located, discharged or fired so as, in the opinion of the county manager after proper investigation, not to be hazardous to property or endanger any person.

(c) Applications for permits for supervised public displays shall be made in writing to the county clerk at least ten days in advance of the date of the display. After such privilege shall be granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

(d) The permittee shall furnish a bond or certificate of insurance in an amount deemed adequate by the county manager for the payment of all damages which may be caused either to a person or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees or subcontractors.

(e) Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining.

(f) Nothing in this section shall be construed to prohibit the use of fireworks by transportation agencies for signal purposes of illumination, for the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports or for use by military organizations.

(g) It is hereby provided that safe and sane fireworks shall be permitted within the county. This shall mean and include all fireworks that have no report, that are not self-propelling and the effects of which do not extend above ten feet in height from the ground; it shall include the following items:

(1) Snakes, total pyrotechnic composition not to exceed 20 grams each in weight.

(2) Smoke devices and spray balls, total pyrotechnic composition not to exceed 25 grams each in weight.

(3) Wheels, total pyrotechnic composition not to exceed 60 grams in weight per driver unit, but any number of drivers may be on any one wheel. The inside bore of driver tubes shall not be over one-half inch.

(4) Illuminating torches and colored fire in any form, total pyrotechnic composition of illuminating torches not to exceed 100 grams each in weight.

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(5) Sparklers and dipped sticks, total pyrotechnic composition not to exceed 100 grams each in weight. Pyrotechnic composition containing any chlorate or perchlorate shall not exceed five grams.

(6) Cone-shaped and cylindrical fountains, total pyrotechnic composition not to exceed 75 grams each in weight. The inside tube diameter of cylindrical fountains shall not exceed three-fourths inch.

(7) Railway fuses, fuses, truck flares, hardship distress signals, smoke candles, smoke signals and smoke pots.

(8) All other fireworks similar but not specifically permitted hereinabove shall be tested for approval by the county prior to sale.

(h) It shall be unlawful to sell any permitted device to children under the age of 16 years.

(i) Permitted devices may be sold at retail between June 5 and July 4 of each year.

(j) No fireworks shall be stored, kept, or discharged within 50 feet of any gasoline pump, gasoline filling station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.

(Ord. No. 85-08-01, § 3, 5-8-1985)

Sec. 16-58. - Permit; permit fee; restrictions; precautions.

(a) *Permit required.* No person, manufacturer, wholesaler, or retailer shall keep, store, transport, or sell within the county any of the permitted devices specified in section 16-57(g) without first:

(1) Applying to the county for a permit to keep, store, transport, or sell the same;

(2) Demonstrating to the satisfaction of the county manager that the items to be handled are permitted devices; and

(3) Certifying that no person under the age of 16 years shall be permitted under the authority of the permit to be issued to keep, store, transport, or sell such permitted devices.

(b) *Permit fee, retailer.* A retailer permit may be issued to keep, store, transport, or sell permitted devices. A retailer permit shall be effective from date of issuance, but not before June 5, and shall expire at 9:00 p.m. on July 4. Permits are void and of no effect before June 5 and after July 4. A retailer may store permitted devices up to July 14 but not thereafter. The permit fee is $150.00.

(c) *Permits not transferable.* Permits are subject to immediate revocation for violation of this article on written notice from the county manager. A new permit will not be issued to a person who has had a permit revoked for a period of 18 months.

(d) *Protection of structure.* A structure where permitted devices are sold shall be protected by at least one five-gallon bucket of water or an approved fire extinguisher with at least a five-pound ABC classification.

(e) *Smoking prohibited within 25 feet.* Smoking shall be prohibited within 25 feet of any fireworks stand or warehouse. "No Smoking" signs must be prominently displayed.

(Ord. No. 85-08-01, § 4, 5-8-1985)

Sec. 16-59. - Inspection.

The county manager may, at all reasonable hours, enter and inspect the premises, building or any structure temporarily or permanently located at the site designated for the sale, packaging or handling of permitted devices.

(Ord. No. 85-08-01, § 5, 5-8-1985)

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Sec. 16-60. - Seizure or removal authority.

An authorized representative of the county or the county sheriff shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks, other than permitted devices, offered or exposed for sale, stored or held in violation of this article.

(Ord. No. 85-08-01, § 6, 5-8-1985)

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Chapter 17 - RESERVED

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Chapter 18 - FLOOD DAMAGE PREVENTION [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION

ARTICLE III. - PROVISIONS FOR FLOOD HAZARD REDUCTION

FOOTNOTE(S):

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State Law reference— Flood control in counties, NMSA 1978, § 4-50-1 et seq. (Back)

ARTICLE I. - IN GENERAL

Sec. 18-1. - Lands to which this chapter applies.

Sec. 18-2. - Statement of purpose.

Sec. 18-3. - Definitions.

Sec. 18-4. - Penalties for noncompliance.

Sec. 18-5. - Basis for establishing the areas of special flood hazard.

Sec. 18-6. - Establishment of development permit.

Sec. 18-7. - Compliance.

Sec. 18-8. - Abrogation and greater restrictions.

Sec. 18-9. - Interpretation.

Sec. 18-10. - Warning and disclaimer of liability.

Sec. 18-11. - Statutory authorization.

Sec. 18-12. - Findings of fact.

Sec. 18-13. - Methods of reducing flood losses.

Secs. 18-14—18-42. - Reserved.

Sec. 18-1. - Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the unincorporated areas of the county.

(Ord. No. 08-04-03.9A, art. 3, § A, 4-3-2008)

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Sec. 18-2. - Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

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

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

(4) Minimize prolonged business interruptions;

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

(6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

(7) Ensure that potential buyers are notified that property is in a flood area.

(Ord. No. 08-04-03.9A, art. 1, § C, 4-3-2008)

Sec. 18-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the one percent annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zone A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means the elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for Zone A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one percent chance of equaling or exceeding that level in any given year. See also *Base flood.*

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

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Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS). See *Flood elevation study.*

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodplain or *floodprone area* means any land area susceptible to being inundated by water from any source. See *Flood* or *flooding.*

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term "floodplain management

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regulations" describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See *Regulatory floodway.*

Functionally dependent use means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term "functionally dependent use" includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

    a. By an approved state program as determined by the Secretary of the Interior; or

    b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area. See *Area of special flood hazard.*

Start of construction, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. The term "permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. This term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

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(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements, see section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

(Ord. No. 08-04-03.9A, art. 2, 4-3-2008)

Sec. 18-4. - Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of a court order and other applicable regulations. Violation of the provisions of a court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates a court order or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $300.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the board of county commissioners from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 08-04-03.9A, art. 5, § G, 4-3-2008)

Sec. 18-5. - Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Sandoval County, New Mexico and Incorporated Areas," dated March 18, 2008, with accompanying current effective flood insurance rate maps (FIRMs) dated March 18, 2008.

(Ord. No. 08-04-03.9A, art. 3, § B, 4-3-2008)

Sec. 18-6. - Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this chapter.

(Ord. No. 08-04-03.9A, art. 3, § C, 4-3-2008)

Sec. 18-7. - Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.

(Ord. No. 08-04-03.9A, art. 3, § D, 4-3-2008)

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Sec. 18-8. - Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 08-04-03.9A, art. 3, § E, 4-3-2008)

Sec. 18-9. - Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the county commission; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 08-04-03.9A, art. 3, § F, 4-3-2008)

Sec. 18-10. - Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. No. 08-04-03.9A, art. 3, § G, 4-3-2008)

Sec. 18-11. - Statutory authorization.

The legislature of the state has in NMSA 1978, §§ 3-18-7 and 4-37-1 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the board of commissioners of the county does ordain the provisions of this chapter.

(Ord. No. 08-04-03.9A, art. 1, § A, 4-3-2008)

Sec. 18-12. - Findings of fact.

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

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Ord. No. 08-04-03.9A, art. 1, § B, 4-3-2008)

Sec. 18-13. - Methods of reducing flood losses.

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

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(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. 08-04-03.9A, art. 1, § D, 4-3-2008)

Secs. 18-14—18-42. - Reserved.

ARTICLE II. - ADMINISTRATION

Sec. 18-43. - Administrator designated.

Sec. 18-44. - Administrator duties.

Sec. 18-45. - Permit procedures.

Sec. 18-46. - Variance procedures.

Secs. 18-47—18-66. - Reserved.

Sec. 18-43. - Administrator designated.

The planner III and administrative support coordinator are hereby appointed the floodplain administrators to administer and implement the provisions of this chapter and other appropriate sections of the Emergency Management and Assistance—National Flood Insurance Program Regulations pertaining to floodplain management.

(Ord. No. 08-04-03.9A, art. 4, § A, 4-3-2008)

Sec. 18-44. - Administrator duties.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter.

(2) Review permit applications to determine whether to ensure that the proposed building site projects, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this chapter.

(4) Review permits for proposed development to ensure that all necessary permits have been obtained from those federal, state or local governmental agencies (including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1344) from which prior approval is required.

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(5) Make the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

(6) Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the state department of homeland security and emergency management (DHSEM), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with section 18-5, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of article III of this chapter.

(9) When a regulatory floodway has not been designated, must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Under the provisions of 44 CFR 65.12 of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by section 65.12 of the National Flood Insurance Program regulations.

(Ord. No. 08-04-03.9A, art. 4, § B, 4-3-2008)

Sec. 18-45. - Permit procedures.

(a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 18-68(2);

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(5) Maintain a record of all such information in accordance with section 18-44(1).

(b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

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(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(Ord. No. 08-04-03.9A, art. 4, § C, 4-3-2008)

Sec. 18-46. - Variance procedures.

(a) The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this chapter.

(b) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

(c) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

(d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this chapter.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 18-45(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter as stated in section 18-2

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(j) Prerequisites for granting variances.

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

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a. Showing a good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any applicant to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

(1) The criteria outlined in subsections (a) through (i) of this section are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. No. 08-04-03.9A, art. 4, § D, 4-3-2008)

Secs. 18-47—18-66. - Reserved.

ARTICLE III. - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 18-67. - General standards.

Sec. 18-68. - Specific standards.

Sec. 18-69. - Standards for subdivision proposals.

Sec. 18-70. - Standards for areas of shallow flooding (AO/AH Zones).

Sec. 18-71. - Floodways.

Sec. 18-67. - General standards.

In all areas of special flood hazard, the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

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(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 08-04-03.9A, art. 5, § A, 4-3-2008)

Sec. 18-68. - Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in section 18-5, 18-44(8) or 18-69(c), the following provisions are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot or more above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in section 18-45(a)(1), is satisfied.

(2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot or more above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

(3) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) *Manufactured homes.*

a. All manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. Manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:

1. Outside of a manufactured home park or subdivision;

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2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or
4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c. Manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of subsections (4)a and (4)b of this section shall be elevated so that either:

1. The lowest floor of the manufactured home is one foot or more above the base flood elevation; or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) *Recreational vehicles.* Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM shall either:

a. Be on the site for fewer than 180 consecutive days;
b. Be fully licensed and ready for highway use; or
c. Meet the permit requirements of section 18-45(a), and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(Ord. No. 08-04-03.9A, art. 5, § B, 4-3-2008)

Sec. 18-69. - Standards for subdivision proposals.

(a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 18-2, 18-12 and 18-13

(b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of sections 18-6 and 18-45 and the provisions of this article.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 18-5 or 18-44(8).

(d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. No. 08-04-03.9A, art. 5, § C, 4-3-2008)

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Sec. 18-70. - Standards for areas of shallow flooding (AO/AH Zones).

Located within the areas of special flood hazard established in section 18-5 are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

(2) All new construction and substantial improvements of nonresidential structures shall:

a. Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

b. Together with attendant utility and sanitary facilities, be designed so that below the base specified flood depth in an AO Zone, or below the base flood elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 18-45, are satisfied.

(4) Require within Zones AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(Ord. No. 08-04-03.9A, art. 5, § D, 4-3-2008)

Sec. 18-71. - Floodways.

Located within areas of special flood hazard established in section 18-5 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of chapter.

(3) Under the provisions of 44 CFR 65.12 of the National Flood Insurance Program regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by section 65.12 of the National Flood Insurance Program regulations.

(Ord. No. 08-04-03.9A, art. 5, § E, 4-3-2008)

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Chapter 19 - RESERVED

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Chapter 20 - HUMAN RELATIONS [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - FAIR HOUSING

FOOTNOTE(S):

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State Law reference— Human rights, NMSA 1978, § 28-1-1 et seq.; exemptions to Human Rights Act, NMSA 1978, § 28-1-9. (Back)

ARTICLE I. - IN GENERAL

Secs. 20-1—20-18. - Reserved.

Secs. 20-1—20-18. - Reserved.

ARTICLE II. - FAIR HOUSING

Sec. 20-19. - Policy.

Sec. 20-20. - Definitions.

Sec. 20-21. - Unlawful practice.

Sec. 20-22. - Discrimination in the sale or rental of housing.

Sec. 20-23. - Discrimination in residential real estate-related transactions.

Sec. 20-24. - Discrimination in the provision of brokerage services.

Sec. 20-25. - Exemption.

Sec. 20-26. - Administration.

Sec. 20-27. - Education and conciliation.

Sec. 20-28. - Enforcement.

Sec. 20-29. - Investigations; subpoenas; giving of evidence.

Sec. 20-30. - Enforcement by private persons.

Sec. 20-31. - Interference, coercion or intimidation.

Sec. 20-32. - Prevention of intimidation in fair housing cases.

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Sec. 20-19. - Policy.

It is the policy of the county to provide, within constitutional limitations, for fair housing throughout the county.

(Ord. No. 06-12-21.5D, § 1, 12-21-2006)

Sec. 20-20. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggrieved person means any person who:

(1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that they will be injured by a discriminatory housing practice that is about to occur.

Chief elected official means the chairperson of the county commission and who is signatory to the Small Cities Community Development Block Grant agreement with the local government division.

Complainant means the person (including the chief elected official) who files a complaint under section 20-28.

Disability.

(1) The term "disability" means, with respect to a person:

a. A physical or mental impairment which substantially limits one or more of such person's major life activities;

b. A record of having such an impairment; or

c. Being regarded as having such impairment.

(2) The term "disability" does not include current illegal use of or addiction to a controlled substance as defined in section 102 of the Controlled Substances Act (21 USC 802).

Discriminatory housing practice means an act that is unlawful under section 20-22, 20-23 or 20-24.

Dwelling means any building, structure or portion thereof which is occupied as, designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Familial status means one or more individuals (who have not attained the age of 18 years) being domiciled with:

(1) A parent or another person having legal custody of such individual or individuals; or

(2) The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant, or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Family includes a single individual.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

Respondent means:

(1) The person or other entity accused in a complaint of an unfair housing practice; and

(2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 20-28

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To rent means to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(Ord. No. 06-12-21.5D, § 2, 12-21-2006)

Sec. 20-21. - Unlawful practice.

(a) Subject to the provisions of subsection (b) of this section and section 20-25, the prohibitions against discrimination in the sale or rental of housing set forth in section 20-22 shall apply to all dwellings except as exempted by subsection (b) of this section.

(b) Nothing in section 20-22 shall apply to:

(1) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale, or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; provided further, that the sale or rental of any such single-family house shall be excepted from the application of this article only if such house is sold or rented:

a. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson or person; and

b. Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of section 20-22(3), but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

(2) Rooms or units in dwellings contained living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwelling if:

(1) They have, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) They have, within the preceding 12 months, participated as agent, other than in the sale of their own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) They are the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Ord. No. 06-12-21.5D, § 3, 12-21-2006)

Sec. 20-22. - Discrimination in the sale or rental of housing.

As made applicable by section 20-21 and except as exempted by sections 20-21(b) and 20-25, it shall be unlawful:

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(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, familial status or national origin.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, disability, familial status or national origin.

(3) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, disability, familial status or national origin, or an intention to make any such preference, limitation or discrimination.

(4) To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, familial status or national origin.

(Ord. No. 06-12-21.5D, § 4, 12-21-2006)

Sec. 20-23. - Discrimination in residential real estate-related transactions.

(a) *Generally.* It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status or national origin.

(b) *Definitions.* As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a dwelling; or secured by residential real estate.

(2) The selling, brokering or appraising of residential real property.

(c) *Appraisal exemption.* Nothing in this article prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, disability, familial status or national origin.

(Ord. No. 06-12-21.5D, § 5, 12-21-2006)

Sec. 20-24. - Discrimination in the provision of brokerage services.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against them in the terms or conditions of such access, membership or participation because of race, color, religion, sex, disability, familial status or national origin.

(Ord. No. 06-12-21.5D, § 6, 12-21-2006)

Sec. 20-25. - Exemption.

Nothing in this article shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by, or in conjunction with, a religious

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organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or disability. Nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(Ord. No. 06-12-21.5D, § 7, 12-21-2006)

Sec. 20-26. - Administration.

(a) The authority and responsibility for administering this article shall be in the chief elected official of the county.

(b) The chief elected official may delegate any of these functions, duties and powers to employees of the county or to boards of such employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining ordering, certifying, reporting or otherwise acting as to any work, business or matter under this article. The chief elected official shall by rule prescribe such rights of appeal from the decisions of their hearing examiners, to other hearing examiners or to other offices in the county, to boards of officers or to themselves, as shall be appropriate and in accordance with law.

(c) All county departments and agencies shall administer their programs and activities relating to housing and community development in a manner affirmatively to further the purposes of this article and shall cooperate with the chief elected official to further such purposes.

(Ord. No. 06-12-21.5D, § 8, 12-21-2006)

Sec. 20-27. - Education and conciliation.

Immediately after the enactment of the ordinance from which this article is derived, the chief elected official shall commence such educational conciliatory activities as will further the purposes of this article.

(Ord. No. 06-12-21.5D, § 9, 12-21-2006)

Sec. 20-28. - Enforcement.

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that they will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "aggrieved person") may file a complaint with the chief elected official. Complaints shall be in writing and shall contain such information, and be in such form as the chief elected official requires. Upon receipt of such a complaint, the chief elected official shall furnish a copy of the same to the person who has committed, or is about to commit, the alleged discriminatory housing practice. Within 30 days after receiving a complaint or within 30 days after the expiration of any period reference under subsection (c) of this section, the chief elected official shall investigate the complaint and give notice in writing to the aggrieved person whether they intend to resolve it. If the chief elected official decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned. Any employee of the chief elected official who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000.00 or imprisoned not more than one year, unless ordered to release the information by a state agency or a court of competent jurisdiction.

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(b) A complaint under subsection (a) of this section shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the chief elected official, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) If within 30 days after a complaint is filed with the chief elected official, the chief elected official has been unable to obtain voluntary compliance with this article, the aggrieved person may, within 30 days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development.

(d) If the chief elected official has been unable to obtain voluntary compliance within 30 days of the complaint, the aggrieved person may, within 30 days thereafter, demand mediation. If mediation fails, the aggrieved person may commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this article, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual comes to trial, the chief elected official shall immediately terminate all efforts to obtain voluntary compliance.

(Ord. No. 06-12-21.5D, § 10, 12-21-2006)

Sec. 20-29. - Investigations; subpoenas; giving of evidence.

(a) In conducting an investigation, the chief elected official shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance or the investigation; provided, however, that the chief elected official first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures.

(b) The county attorney or an attorney chosen by the association of counties shall conduct all litigation in which the chief elected official participates as a party or as amicus pursuant to this article.

(Ord. No. 06-12-21.5D, § 11, 12-21-2006)

Sec. 20-30. - Enforcement by private persons.

(a) The rights granted by sections 20-21 through 20-24 may be enforced by civil actions in the appropriate United States district or state court. A civil action shall be commenced within 180 days after the alleged discriminatory housing practice occurred; provided, however, that the court shall continue such civil case brought pursuant to this section or section 20-28(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the chief elected official are likely to result in satisfactory settlement of the alleged discriminatory housing practice complained of in the complaint made to the chief elected official and which practice forms the basis for the action in court; and provided, however, that any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this article and involving a bona fide purchaser, encumbrancer or tenant without actual notice of the filing of a complaint or civil action under the provisions of this article shall not be affected.

(b) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order and may award to the plaintiff actual damages and not

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more than $1,000.00 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff; provided, that the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees.

(Ord. No. 06-12-21.5D, § 12, 12-21-2006)

Sec. 20-31. - Interference, coercion or intimidation.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of, his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 20-21 through 20-24. This section may be enforced by appropriate civil action.

(Ord. No. 06-12-21.5D, § 13, 12-21-2006)

Sec. 20-32. - Prevention of intimidation in fair housing cases.

Whoever, whether or not acting under color of law, by force or threat of force, willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(1) Any person because of their race, color, religion, sex, disability, familial status, or national origin and because they are or have been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service organization or facility relating to the business of selling or renting dwellings; or

(2) Any person because they are or have been, or in order to intimidate such person or any other person or any class of persons from:

   a. Participating, without discrimination because of race, color, religion, sex, handicap, familial status or national origin, or in any of the activities, services organizations, or facilities described in subsection (1) of this section; or

   b. Affording another person or class of persons opportunity or protection so to participate; or

(3) Any citizen because they are or have been, or in order to discourage such citizen or any other citizen from, lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described in subsection (1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate;

shall be fined not more than $1,000.00, or imprisoned not more than one year, or both; and if bodily injury results, shall be fined not more than $10,000.00, or imprisoned not more than ten years, or both; and if death results, shall be subject to imprisonment for any term of years or for life and/or to other applicable local, state, and/or federal laws.

(Ord. No. 06-12-21.5D, § 15, 12-21-2006)

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Chapter 21 - RESERVED

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Chapter 22 - MANUFACTURED HOUSING [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - MOVEMENT OF HOUSING

FOOTNOTE(S):

--- (1) ---

State Law reference— Local ordinances concerning installation and sale of manufactured homes must be consistent with state law, 14 NMAC 12.1.8. (Back)

ARTICLE I. - IN GENERAL

Secs. 22-1—22-18. - Reserved.

Secs. 22-1—22-18. - Reserved.

ARTICLE II. - MOVEMENT OF HOUSING

Sec. 22-19. - Title.

Sec. 22-20. - Applicability.

Sec. 22-21. - Definitions.

Sec. 22-22. - Tax release requirement.

Sec. 22-23. - Certificate specifications.

Sec. 22-24. - Exception to certificate requirement.

Sec. 22-25. - Attachment of certificate.

Sec. 22-26. - Requirements for issuance.

Sec. 22-27. - Conditionally restricted movement.

Sec. 22-28. - Certificate required.

Sec. 22-29. - No discharge of tax liability.

Sec. 22-30. - Exceptions to registration requirement.

Sec. 22-19. - Title.

This article shall be referred to as the "Sandoval County Manufactured (Mobile) Home Ordinance."

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(Ord. No. 08-01-17.10, § 1, 1-17-2008)

Sec. 22-20. - Applicability.

This article shall apply to all streets and highways under the jurisdiction of the county and within the reasonable exercise of the police power of the county.

(Ord. No. 08-01-17.10, § 2, 1-17-2008)

Sec. 22-21. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions shall be the same as in the motor vehicle code.

Manufactured (mobile) home.

(1) The term "manufactured (mobile) home" means a movable or portable housing structure that exceeds either a width of eight feet or a length of 40 feet, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and which may include one or more components that can be retracted for towing purposes and, subsequently, expanded for additional capacity, or may be two or more units separately towable but designed to be joined into one integral unit as well as a single unit.

(2) The term "manufactured (mobile) home" does not include recreational vehicles or modular or premanufactured homes built to uniform building home standards designed to be permanently affixed to real property at ground level installation with ground anchors.

(Ord. No. 08-01-17.10, § 3, 1-17-2008)

Sec. 22-22. - Tax release requirement.

Pursuant to NMSA 1978, § 66-7-413(G) and except as provided in section 22-24, no movement of a manufactured (mobile) home which originates in this county shall be permitted until the owner of such manufactured (mobile) home or his agent obtains and presents to the motor transportation division proof that a tax release has been signed by the county treasurer showing that either:

(1) All property taxes due or to become due on the manufactured (mobile) home for the current year and/or past tax years have been paid, except for manufactured (mobile) homes located on an Indian reservation; or

(2) No liability for property taxes on the manufactured (mobile) home exists for the current year or any past tax years, except for manufactured (mobile) homes located on an Indian reservation.

(Ord. No. 08-01-17.10, § 4, 1-17-2008)

Sec. 22-23. - Certificate specifications.

In addition to the tax release, a certificate from the county treasurer shall be issued authorizing the movement of any manufactured (mobile) home to be moved. The certificate shall be of a size and color to be prescribed by said treasurer and sufficient to easily identify the manufactured (mobile) home to law enforcement as having been certified by the county treasurer. The certificate shall contain an expiration date which shall be no later than 30 days from the date of issuance and will accompany the issuance of the tax release provided for in section 22-22.

(Ord. No. 08-01-17.10, § 5, 1-17-2008)

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Sec. 22-24. - Exception to certificate requirement.

Pursuant to NMSA 1978, § 66-7-413(H), the movement of a manufactured (mobile) home from the lot or business location of a manufactured (mobile) home dealer to its destination designated by the owner-purchaser is not subject to the requirements of section 22-22 if the movement originated from the lot or business location of the dealer and the manufactured (mobile) home was part of his inventory prior to the sale to the owner/purchaser. The movement of a manufactured (mobile) home by a dealer or his authorized agent as a result of a sale or trade-in from a non-dealer still constitutes the owner as subject to the requirements of this article regardless of the destination or the origination of the manufactured (mobile) home.

(Ord. No. 08-01-17.10, § 6, 1-17-2008)

Sec. 22-25. - Attachment of certificate.

The certificate from the county treasurer shall be attached to the manufactured (mobile) home in a conspicuous location on the rear of said manufactured (mobile) home during movement over any street or highway under the jurisdiction of the county.

(Ord. No. 08-01-17.10, § 7, 1-17-2008)

Sec. 22-26. - Requirements for issuance.

No certificate shall be issued by the county treasurer in accordance with section 22-23 unless the destination has a municipal address or county address assigned under the county rural addressing system. If the designation is a location within the county for which a rural county address is not available, then the person requesting the certificate shall give a physical description of the destination sufficient to enable the county treasurer to identify the actual site or location to which the manufactured (mobile) home is being moved.

(Ord. No. 08-01-17.10, § 8, 1-17-2008)

Sec. 22-27. - Conditionally restricted movement.

No person who is the owner, purchaser, lessee, renter or who is the agent or employee of any owner, purchaser, lessee, renter or who has custody and control of said manufactured (mobile) home shall suffer or permit the movement of said manufactured (mobile) home unless the person shall have first affixed said certificate to the manufactured (mobile) home as required by section 22-25.

(Ord. No. 08-01-17.10, § 9, 1-17-2008)

Sec. 22-28. - Certificate required.

No person shall move a manufactured (mobile) home unless the certificate required by this article shall have been obtained and affixed to said manufactured (mobile) home as required by this article.

(Ord. No. 08-01-17.10, § 10, 1-17-2008)

Sec. 22-29. - No discharge of tax liability.

Prosecution or conviction under this article shall not discharge the obligation for the payment of any taxes due under the laws of the state.

(Ord. No. 08-01-17.10, § 11, 1-17-2008)

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Sec. 22-30. - Exceptions to registration requirement.

Every manufactured (mobile) home shall be subject to the registration and certificate of title provisions of the motor vehicle code, and each manufactured (mobile) home shall at all times bear a current registration plate.

(Ord. No. 08-01-17.10, § 12, 1-17-2008)

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Chapter 23 - RESERVED

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Chapter 24 - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL

ARTICLE II. - DISCHARGE OF FIREARMS

ARTICLE III. - SMOKING

ARTICLE I. - IN GENERAL

Secs. 24-1—24-18. - Reserved.

Secs. 24-1—24-18. - Reserved.

ARTICLE II. - DISCHARGE OF FIREARMS

Sec. 24-19. - Illegal discharging of firearms in Bosque area.

Sec. 24-20. - Definitions.

Sec. 24-21. - Prohibited discharge in certain urban areas.

Secs. 24-22—24-45. - Reserved.

Sec. 24-19. - Illegal discharging of firearms in Bosque area.

(a) *Discharge illegal.* It shall be illegal to discharge a firearm within the county in the following bounded geographical area: the area known as the Sandoval County Bosque area which runs along the Rio Grande River, bounded on the north by the Santa Ana Reservation, and bounded on the south by the Sandia Reservation, all as more particularly shown on the map attached to the ordinance from which this article is derived and available in the county administrative offices.

(b) *Exception for peace officers.* The provisions set forth in subsection (a) of this section shall not be construed to forbid peace officers from carrying, wearing or discharging such weapons as shall be necessary in the proper discharge of their duties.

(c) *Exception for wildlife conservation officers.* The provisions set forth in subsection (a) of this section shall not be construed to forbid wildlife conservation officers from carrying, wearing or discharging such weapons as shall be necessary in the proper discharge of their duties.

(Ord. No. 99-3-18.8, § 1, 3-18-1999)

Sec. 24-20. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Firearm means any handgun, rifle, shotgun or any weapon which will or is designated to or may readily be converted to expel a projectile by the action of an explosion, including the frame, receiver, muffler or silencer of any such weapons.

(Ord. No. 99-3-18.8, § 3, 3-18-1999)

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Sec. 24-21. - Prohibited discharge in certain urban areas.

(a) The county commission herewith ordains that:

(1) The negligent use of firearms is prohibited in this area of the county, which has greatly increased in population: the area of the county extending north from the Sandoval County/Bernalillo County line to Highway 550, extending west to the Rio Puerco and extending east to the municipal limits of the Town of Bernalillo and the City of Rio Rancho (excluding municipalities and tribal lands).

(2) The negligent use of firearms consists of:

a. Discharging a firearm or gun within these geographical limits without legal justification;

b. Carrying or having within one's reach or immediate grasp, a firearm while under the influence of an intoxicating liquor or other drug; or

c. Endangering the safety of another or his property by handling or using a firearm or other deadly weapon in a negligent manner.

(b) The provisions of subsection (a) of this section shall not be construed to forbid peace officers from carrying, wearing or discharging such weapons as shall be necessary in the proper discharge of their duties.

(c) This section shall not be construed to prohibit target firing on ranges that are permitted by the county and meet all applicable federal and state requirements. However, the discharge of such firearm must be completely contained within the limits of the firing range.

(d) Nothing herein shall be construed to contradict or abrogate the rights granted to the citizens of the state in article II, section 6 of the New Mexico Constitution nor shall any provision of this article be construed to abrogate the rights granted by NMSA 1978, § 77-1-2 that permits the owner of livestock to kill any dog or other predators upon the livestock owner's property that are attacking their livestock.

(e) Violation of this section shall be a misdemeanor. However, nothing herein shall be construed to limit the discretion of a peace officer to charge an individual violating this section with any additional and appropriate charges.

(Ord. No. 03-06-05.14A, 6-5-2003)

Secs. 24-22—24-45. - Reserved.

ARTICLE III. - SMOKING

Sec. 24-46. - Title.

Sec. 24-47. - Declaration of policy and intent; public health and well-being.

Sec. 24-48. - Authority.

Sec. 24-49. - Definitions.

Sec. 24-50. - Penalties.

Sec. 24-51. - Prohibited smoking.

Sec. 24-52. - Permitted smoking areas.

Sec. 24-53. - Required signs.

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Sec. 24-46. - Title.

This article may be cited as the "Sandoval County Smoking Ordinance."

(Ord. No. 96-05-02.8, § I, 5-2-1996)

Sec. 24-47. - Declaration of policy and intent; public health and well-being.

The county commission finds and declares that smoking of tobacco in public places is a danger to the health of others and that smoking should be limited. The county commission further declares its intention to protect the public health from such hazards in the county courthouse.

(Ord. No 96-05-02.8, § II, 5-2-1996)

Sec. 24-48. - Authority.

The authority for this article is contained in NMSA 1978, §§ 4-37-1 and 24-16-1 to 24-16-11.

(Ord. No. 96-05-02.8, § III, 5-2-1996)

Sec. 24-49. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Place of employment means any enclosed area in the county courthouse, including, but not limited to, work areas, employee lounges, conference rooms and eating areas.

Public meeting means any meeting required by law to be an open meeting.

Public place means any enclosed indoor area in the county courthouse.

Smoke or *smoking* means the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment, or the lighting or emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.

Smoking-permitted area means that portion of a public place in which smoking is permitted.

(Ord. No. 96-05-02.8, § IV, 5-2-1996)

Sec. 24-50. - Penalties.

Violation of this article will be a petty misdemeanor, resulting in a $25.00 fine. Prosecution under this article may be initiated either by citation or complaint.

(Ord. No. 96-05-02.8, § VIII, 5-2-1996)

Sec. 24-51. - Prohibited smoking.

It is unlawful for any person to smoke in a public place or at a public meeting except in smoking permitted areas.

(Ord. No. 96-05-02.8, § V, 5-2-1996)

Sec. 24-52. - Permitted smoking areas.

The following areas are designated as permitted-smoking areas:

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(1) The smoking lounge within the county courthouse. One fully-enclosed room, equipped with a ventilation fan, within the confines of the county courthouse will be designed as a smoking area.

(2) Smoking and nonsmoking areas for employees and detainees of the county detention facility will be regulated by the director of detention.

(3) The judicial building is a nonsmoking facility unless a smoking area is designated by the district judges. The county will provide appropriate signs.

(4) Smoking or nonsmoking will be designated by the proprietor of any space leased by the county.

(Ord. No. 96-05-02.8, § VI, 5-2-1996)

Sec. 24-53. - Required signs.

To advise persons that county buildings are nonsmoking facilities, except for designated smoking lounges, signs will be posted as follows:

(1) A sign using the words "Smoking Not Permitted" or the international smoking symbol, or both, will be conspicuously posted either on all public entrances or in a position where it is clearly visible upon entry into the building.

(2) A sign will be displayed on the smoking lounge door, or other designated area, which conspicuously indicates:

"Smoking Lounge. Smoking is expressly prohibited in all other areas of this building. Violations are a misdemeanor and cause for citation."

(Ord. No. 96-05-02.8, § VII, 5-2-1996)

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Chapter 25 - RESERVED

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Chapter 26 - PERSONNEL [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - PERSONNEL REGULATIONS

ARTICLE III. - LABOR MANAGEMENT RELATIONS

FOOTNOTE(S):

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State Law reference— Public officers and employees, NMSA 1978, § 10-1-1 et seq. (Back)

ARTICLE I. - IN GENERAL

Secs. 26-1—26-19. - Reserved.

Secs. 26-1—26-19. - Reserved.

ARTICLE II. - PERSONNEL REGULATIONS

Sec. 26-20. - Title and purpose.

Sec. 26-21. - Prohibited acts.

Sec. 26-22. - Employment relations.

Sec. 26-23. - Violation of this article.

Sec. 26-24. - Classified and unclassified positions.

Sec. 26-25. - Administration.

Sec. 26-26. - Selection for employment, retention and compensation.

Sec. 26-27. - Personnel records.

Sec. 26-28. - Collective bargaining agreements.

Sec. 26-29. - Rules and regulations; supplemental policies and procedures.

Sec. 26-30. - Hearing officer.

Sec. 26-31. - County property.

Secs. 26-32—26-50. - Reserved.

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Sec. 26-20. - Title and purpose.

(a) The purpose of this article is to establish for the county a system of personnel administration based solely on qualification and ability, which will provide greater economy and efficiency in the management of county affairs.

(b) It is the express intent of the board of county commissioners that the provisions of this article, while not a contract of employment or offer to enter into a contract of employment, shall establish the standards to be followed for employer-employee relations, with the exceptions only as provided herein or as amended by official action. As approved and published, and as amended or revised, the article shall be distributed to all divisions and programs to ensure that an official copy is available to all employees during normal working hours.

(Ord. No. 09-02-05.14A, § 1, 11-17-2011)

Sec. 26-21. - Prohibited acts.

(a) It is unlawful for any person to authorize, approve or consent to a strike by one or more employees of the county. It is unlawful for any employee of the county to strike. For the purposes of this article, the term "strike" means the willful failure to report for work, the willful absence from his position, the failure to fully, faithfully and properly perform the duties of employment, work stoppage, work slowdown, or any action which is intended to or does disrupt the effective and orderly operation and function of county government for the purposes of bringing about change in the terms and conditions of employment.

(b) Notwithstanding other provisions of law, any county employee who violates the provisions of this section or any subsection of this section shall thereby abandon and terminate his appointment or employment and shall no longer hold such position or be entitled to any of the rights or benefits of such position. Such termination of employment or appointment shall be immediate and compulsory.

(c) If, subsequent to such violation, any person shall be appointed or reappointed or employed or reemployed as a county employee within a one-year period of the violation, his compensation shall in no event exceed that received by him immediately prior to the violation, and he shall not receive any increase in salary and/or benefits until the expiration of a one-year period from the appointment, reappointment, employment or reemployment.

(Ord. No. 09-02-05.14A, § 3, 11-17-2011)

Sec. 26-22. - Employment relations.

The employment relations policy of the county is as follows:

(1) All employment decisions made by the county government shall be based on merit and fitness.

(2) Just and equitable incentives and conditions of employment shall be established to promote efficiency and economy in the operations of county government.

(3) Positions having similar duties and responsibilities shall be classified and compensated on a uniform basis.

(4) Employees shall not be discriminated against because of race, sex, age, color, national origin, religion, handicap, disability or medical condition, veteran status, or any other unlawful criterion except where a bona fide occupational qualification applies.

(5) To ensure fair and objective treatment of all job applicants and employees, employees shall be protected against coercion for partisan or political reasons.

(6) Every consideration shall be given to the rights and interests of employees consistent with the best interests of the public and the county.

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(7) Continued employment of employees covered by this article shall be subject to the availability of funds.

(Ord. No. 09-02-05.14A, § 4, 11-17-2011)

Sec. 26-23. - Violation of this article.

Any employee of the county who violates or attempts to violate this article shall be subject to disciplinary action up to and including dismissal.

(Ord. No. 09-02-05.14A, § 5, 11-17-2011)

Sec. 26-24. - Classified and unclassified positions.

(a) *Covered employees.* The classified employees of the county shall be covered by all the provisions of this article.

(b) *Appointing officials.* Appointing officials cover both elected and non-elected supervisory heads of each division, department, office, agency, or other unit of county government.

(c) *Categories.* All positions in the county service shall be divided into classified and unclassified categories, except those positions held by elected officials, members of county boards and commissions, and independent contractors which shall not be in either category.

(1) *Classified service.* The classified service is comprised of all county employees except those who are specifically placed in the unclassified service category by this article.

(2) *Unclassified service.*

a. Unclassified service is comprised of the following:

1. A maximum of one appointee, for the county assessor, county clerk and county treasurer, namely the chief deputy assessor, chief deputy clerk and chief deputy treasurer.

2. The undersheriff and the sheriff's personal secretary.

3. The county manager and assistant county manager.

4. The county attorney and/or contract attorneys.

5. Part-time, casual/PRN, contract, temporary, probationary, term and emergency hire employees.

b. Unclassified employees are not subject to the merit provisions of this article, are terminable at-will, and cannot grieve layoffs, dismissals or other disciplinary actions through the grievance procedures contained in this article. Unclassified employees, except casuals, temporaries, terms, and emergency hires, are entitled to all other rights and benefits contained in this article.

(d) *Hiring, transfer or placement of appointees; eligibility in accordance with merit selection process.* The appointees of the county assessor, county clerk, county sheriff and county treasurer shall not be hired, transferred or otherwise placed into the classified service by or on behalf of the elected official for which such appointee has served; provided, however, all such appointees shall be eligible to obtain a classified position in another department if such selection is in accordance with the merit selection process of this article.

(e) *Classified status retained; manner in which appointments made.* All individuals regularly employed in the county service on the effective date of the ordinance from which this chapter is derived shall retain their classified status until they resign, voluntarily accept an unclassified position, or until terminated, dismissed or laid off in accordance with the procedures established in this article and the rules and regulations adopted pursuant to this article. All appointments to classified service on and

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after the effective date of the ordinance from which this chapter is derived shall be made in accordance with the merit and qualification provision contained in the county's ordinances and its rules and regulations.

(Ord. No. 09-02-05.14A, § 6, 11-17-2011)

Sec. 26-25. - Administration.

(a) The county manager shall hire and supervise a human resources director, who shall administer the article's merit and employment relations system, the adopted rules and regulations and other applicable policies.

(b) The county manager and human resources director shall, subject to existing law:

(1) Submit to the board of county commissioners for action such amendments, new or revised employment relations rules and regulations, policies, compensation plans and/or other applicable regulations as are deemed necessary.

(2) Administer and maintain the merit system, employment records and policies established under this article and under its authority.

(3) Develop, maintain and apply procedures for employee recruitment, promotion and training, employee evaluation and corrective action plans, discipline of employees for just cause and related aspects of personnel management for all county employees, subject to the provisions of state and federal laws and county ordinances, including the employment rules and regulations adopted or amended pursuant to this article and all applicable policies adopted or amended by the board of county commissioners.

(4) Issue administrative instructions and/or interpretive memoranda to provide guidance in furtherance of this article and division or departmental policies and/or standard operating procedures or other employment relations rules or regulations governing the county, after approval by the board of county commissioners.

(5) Establish a system of ratings to evaluate the work performance of each employee.

(6) Take actions, as may be necessary, to carry out the mission of county government in emergencies.

(7) Manage and exercise judgment on all matters not specifically prohibited by this article or by a collective bargaining agreement in effect between the county and an employee organization.

(Ord. No. 09-02-05.14A, § 7, 11-17-2011)

Sec. 26-26. - Selection for employment, retention and compensation.

(a) All classified employees shall be hired in accordance with the employment regulations governing the eligibility and selection of employees based on qualifications and merit.

(b) Applicants selected for screening and eligibility for employment must be able to satisfactorily perform all assigned duties and responsibilities associated with their positions and must continue to perform satisfactorily to maintain continued employment with the county.

(c) There shall be a pay plan consisting of a base salary schedule approved by the board of county commissioners and the assignment of each class to its appropriate place in such schedule.

(d) The pay plan, as approved by the board of county commissioners, shall be administered by the county manager.

(Ord. No. 09-02-05.14A, § 8, 11-17-2011)

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Sec. 26-27. - Personnel records.

(a) The human resources division shall maintain the official personnel file, including medical records for each county employee. The personnel file is the sole property of the county.

(b) The director shall maintain a record of each employee's employment history in accordance with operational necessity and applicable state and federal law requirements. Employees shall have access to their own file. No material shall be placed in an employee's file without providing him with a copy.

(c) All employee information deemed confidential shall be accessible only to the employee, supervisors in the employee's direct chain of command, the human resources director, a hiring appointing official in the event the employee seeks another county position, the county attorney or designee, and any person or entity authorized in writing by the employee, and pursuant to any court order, judicial or administrative subpoena, or NMSA 1978, § 14-3-16, as amended.

(d) In no case will any medical or other treatment records be available to anyone other than the director or his designee according to NMSA 1978, § 14-3-1 et seq.

(e) Only the county manager or designee may authorize the permanent removal of material from an employee's file.

(Ord. No. 09-02-05.14A, § 9, 11-17-2011)

Sec. 26-28. - Collective bargaining agreements.

The provisions of this article do not apply to employees included in a collective bargaining agreement but can cover matters not covered by a collective bargaining agreement, if explicitly stated in the collective bargaining agreement.

(Ord. No. 09-02-05.14A, § 10, 11-17-2011)

Sec. 26-29. - Rules and regulations; supplemental policies and procedures.

(a) The rules and regulations adopted under the authority of this article are established as policy of the board of county commissioners to implement its provisions.

(b) The supplemental employment relations policies and procedures adopted by the board of county commissioners, including the vehicle use and fleet maintenance policy, safety manual, computer acceptable use policy, sheriff's office standard operating procedures, sheriff's office rules of conduct, and detention center standard operating policy and procedures, are hereby declared to carry the full force and effect of this article and all employees subject to the provisions of those policies and procedures are required to adhere to their requirements. In the event that any provision of any such policy or procedure or subsequently adopted supplemental policies and/or procedures is determined by a competent authority to be contrary to or at variance with the provisions of this article, the provisions of this article shall govern and the affected policy or procedure shall be interpreted as if the provisions were not contained therein and shall be revised or deleted by amendment to said policy or procedure by formal board action.

(Ord. No. 09-02-05.14A, § 11, 11-17-2011)

Sec. 26-30. - Hearing officer.

(a) The final administrative arbiter of suspensions, demotions and dismissals shall be a hearing officer.

(b) An employee seeking a hearing before the hearing officer must follow the grievance procedures set forth herein.

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(c) The hearing officer shall have the power to direct the county manager to require the presence of county employees at any hearing for the purpose of testifying.

(d) The hearing officer shall not have the authority to amend, modify or arbitrate away any of the provisions of this article or the rules and regulations or policies or procedures adopted pursuant to Ordinance No. 08-12-18-11A. The hearing officer shall confine himself to the precise issues submitted.

(e) The county shall maintain a list of at least five hearing officers who have at least three years experience in the area of employment law or human resources management, experience in conducting administrative hearings and the ability to render and write unbiased and impartial decisions.

(f) The hearing officer's fees and expenses for a hearing shall be paid:

(1) Equally by the county and employee if the employee's suspension, demotion or dismissal is modified by the hearing officer.

(2) By the county if the hearing officer finds in favor of the employee.

(3) By the employee if the hearing officer finds in favor of the county.

(g) The hearing officer's decision is appealable to district court pursuant to the provisions of the Uniform Arbitration Act, NMSA 1978, § 44-7A-20 et seq.

(Ord. No. 09-02-05.14A, § 12, 11-17-2011)

Sec. 26-31. - County property.

An employee shall not misuse county property, records or other material in his care, control or custody, nor shall any county property, record or other material be removed from the county's premises without written authorization by the county manager, elected official or designee. No employee shall use county property, record or equipment for personal gain or share information related to county business with any individual and/or organization outside where there is a conflict of interest.

(Ord. No. 09-02-05.14A, § 13, 11-17-2011)

Secs. 26-32—26-50. - Reserved.

ARTICLE III. - LABOR MANAGEMENT RELATIONS [2]

Sec. 26-51. - Title.

Sec. 26-52. - Purpose.

Sec. 26-53. - Conflicts.

Sec. 26-54. - Definitions.

Sec. 26-55. - Rights of employees.

Sec. 26-56. - Management rights.

Sec. 26-57. - Labor management relations board created; terms.

Sec. 26-58. - Board powers and duties.

Sec. 26-59. - Hearing procedures.

Sec. 26-60. - Appropriate bargaining units.

Sec. 26-61. - Elections.

Sec. 26-62. - Exclusive representation—Generally.

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Sec. 26-63. - Same—Decertification.

Sec. 26-64. - Scope of bargaining.

Sec. 26-65. - Negotiations and impasse resolution.

Sec. 26-66. - Prohibited practices.

Sec. 26-67. - Employees, labor organizations; prohibited practices.

Sec. 26-68. - Strikes and lockouts prohibited.

Sec. 26-69. - Agreements valid; enforcement.

Sec. 26-70. - Judicial enforcement; standard of review.

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Sec. 26-51. - Title.

This article may be cited as the "Sandoval County Labor Relation Management Relations Ordinance."

(Ord. No. 04-09-16.13, § 1, 9-16-2004)

Sec. 26-52. - Purpose.

The purpose of this article is to guarantee employees the right to organize and bargain collectively with their employer, to protect the rights of the employer and the employees and to promote harmonious and cooperative relationships between the employer and the employees; and to acknowledge the obligation of the employer and the employees to provide orderly and uninterrupted services to the citizens.

(Ord. No. 04-09-16.13, § 2, 9-16-2004)

Sec. 26-53. - Conflicts.

(a) In the event of conflict with the other county ordinances, the provisions of this article shall supersede other previously enacted ordinances.

(b) County-sanctioned rules and regulations, administrative directives, departmental rules and regulations, and work place practices shall control unless there is a conflict with a collective bargaining agreement. Where a conflict exists, the collective bargaining agreement shall control.

(Ord. No. 04-09-16.13, § 3, 9-16-2004)

Sec. 26-54. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appropriate bargaining unit means a group of employees designated by the labor management relations board for the purpose of collective bargaining.

Board means the county's labor management relations board.

Certification means the designation by the board of a labor organization as the exclusive representative for all employees in an appropriate bargaining unit.

Collective bargaining means the act of negotiating between the employer and an exclusive representative for the purpose of entering into a written agreement regarding wages, hours, and other terms and conditions of employment.

Confidential employee means a person who devotes a majority of his time to assisting and acting in a confidential capacity with respect to a person who formulates, determines, and effectuates management policies.

Emergency means a one-time crisis that was unforeseen and unavoidable.

Employee means a regular, nonprobationary employee of the county.

Employer means the county.

Exclusive representative means a labor organization that, as a result of certification by the board, represents all employees in an appropriate bargaining unit for the purposes of collective bargaining.

Fair share means the payment to a labor organization which is the exclusive representative for an appropriate bargaining unit, by an employee of that bargaining unit who is not a member of that labor organization, equal to a certain percentage of membership dues. Such figure is to be calculated based on United States and state statutes and case law identifying those expenditures by a labor organization which are permissibly chargeable to all employees in the appropriate bargaining unit under United States and state statutes and case law, including, but not limited to, all expenditures incurred by the labor organization in negotiating the contract applicable to all employees in the appropriate bargaining unit, serving such contract and representing all such employees in grievances and disciplinary actions.

Governing body means the county board of county commissioners.

Impasse means failure of the employer and an exclusive representative, after good faith bargaining, to reach agreement in the course of negotiating a collective bargaining agreement.

Labor organization means any employee organization, one of whose purposes is the representation of public employees in collective bargaining and in otherwise meeting, consulting, and conferring with employers on matters pertaining to employment relations.

Lockout means an act by the employer to prevent its employees from going to work for the purpose of resisting demands of the employees' exclusive representative or for the purpose of gaining a concession from the exclusive representative.

Management employee means an employee who is engaged primarily in executive and management functions and is charged with the responsibility of developing, administering, or effectuating management policies. An employee shall not be deemed a management employee solely because the employee participates in cooperative decision-making programs on an occasional basis.

Mediation means assistance by an impartial third party to resolve an impasse in contract negotiation between the employer and an exclusive representative through interpretation, suggestion, and advice.

Professional employee means an employee whose work is predominantly intellectual and varied in character and whose work involves the consistent exercise of discretion and judgment in its performance and requires knowledge of an advanced nature in a field of learning customarily requiring specialized study at an institution of higher education or its equivalent. The work of a professional employee is of such character that the output or result accomplished cannot be standardized in relation to a given period of time.

Strike means an employee's refusal, in concerted action with other employees, to report for duty or his willful absence or withholding of service in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the working conditions, compensation, rights, privileges, or obligations of employment.

Supervisor means an employee who devotes a majority amount of work time to supervisory duties, who customarily and regularly directs the work of two or more other employees, and who has the authority in the interest of the employer to hire, promote, or discipline other employees or to recommend such actions effectively. This definition does not include individuals who perform merely routine,

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incidental, or clerical duties or who occasionally assume supervisory or directorial roles or whose duties are substantially similar to those of their subordinates and does not include lead employees or employees who occasionally participate in peer review or evaluation of employees.

(Ord. No. 04-09-16.13, § 4, 9-16-2004)

Sec. 26-55. - Rights of employees.

Employees, other than management, supervisory, confidential, and probationary employees, may form, join, or assist labor organization for the purpose of collective bargaining through a representative chosen by the employees without interference, restraint, or coercion. Employees also have the right to refuse to form, join, or assist any labor organization.

(Ord. No. 04-09-16.13, § 5, 9-16-2004)

Sec. 26-56. - Management rights.

Unless limited by the provisions of a collective bargaining agreement or by other statutory provision, the employer's rights shall include, but are not limited to, the following:

(1) To direct the work of, hire, promote, assign, transfer, demote, suspend, discharge, or terminate public employees;

(2) To determine qualifications for employment and the nature and content of personnel examinations;

(3) To take actions as may be necessary to carry out the mission of the employer in emergencies; and

(4) The employer retains all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act.

(Ord. No. 04-09-16.13, § 6, 9-16-2004)

Sec. 26-57. - Labor management relations board created; terms.

(a) The labor management relations board is hereby created. The board shall be composed of three members appointed by the county manager and approved by the county board of county commissioners. One member shall be appointed on the recommendation of individuals representing labor, one member shall be appointed on the recommendation of the county manager, and one member shall be appointed on the recommendation of the first two appointees.

(b) Board members shall serve for a period of one year with terms commencing in the month of September, except in the initial appointment, which will be a shorter term effective the same day as the ordinance from which this article is derived. Vacancies shall be filled in the same manner as the original appointment, and such appointments shall only be made for the remainder of the unexpired term. A board member may serve an unlimited number of terms.

(c) During the term of appointment, no board member shall hold or seek any other political office or public employment or be an employee of a union, an organization representing public employees or a public employer.

(d) Each board member shall be paid per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

(Ord. No. 04-09-16.13, § 7, 9-16-2004)

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Sec. 26-58. - Board powers and duties.

(a) The board shall promulgate rules and regulations necessary to accomplish and perform its functions and duties as established in this article, including the establishment of procedures for:

(1) The designation of appropriate bargaining units;

(2) The selection, certification, and decertification of exclusive representatives; and

(3) The filing, hearing, and determination of complaints of prohibited practices. This does not apply to negotiation impasse or grievances subject to the required negotiated grievance process.

(b) The board shall:

(1) Hold hearings and make inquiries necessary to carry out its functions and duties;

(2) Request from employers and labor organizations the information and data necessary to carry out the functions and responsibilities of the board.

(c) The board may issue subpoenas requiring, upon reasonable notice, the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence, or documents relevant to the matter in question. The board may prescribe the form of the subpoena, but it shall adhere insofar as practicable to the form used in civil actions in the district court. The board may administer oaths and affirmations, examine witnesses, and receive evidence. Subject to the approval of funds, the board may contract with a third party to assist in carrying out its functions.

(d) The board shall decide all issues by majority vote and shall issue its decisions in the form of written orders and opinions. The decisions of the board on interpretation and applications of this article are final and binding on the parties subject to the appeal process provided in section 26-70. The board's hearing authority does not apply to negotiation impasses or issues dealing with the collective bargaining agreement where a grievance procedure has been negotiated for that purpose by the parties as required by law.

(e) The board has the power to enforce provisions of this article and the board's labor management relations rules and regulations through the imposition of appropriate administrative remedies.

(f) The board shall have no power to promulgate policy other than for its own operation.

(g) No rule or regulation promulgated by the board shall require, directly or indirectly, as a condition of continuous employment, any employee covered by this article to pay money to any labor organization that is certified as an exclusive representative. This issue of fair share shall be a permissive as opposed to a mandatory subject of bargaining between the employer and the exclusive representative.

(Ord. No. 04-09-16.13, § 8, 9-16-2004)

Sec. 26-59. - Hearing procedures.

(a) The board may hold hearings for the purposes of:

(1) Information gathering and inquiry;

(2) Adopting rules and regulations; and

(3) Adjudicating disputes and enforcing the provisions of this article, and rules and regulations adopted pursuant to this article.

(b) The board shall adopt regulations setting forth procedures to be followed during hearings of the board. Such regulations shall meet minimal due process requirements of the state and federal constitutions.

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(c) Proceedings against the party alleged to have committed a prohibited practice shall be commenced by service upon it and the board of a written notice together with a copy of the charges and relief requested.

(d) All adopted rules and regulations shall be filed in accordance with applicable laws.

(e) A verbatim record made by electronic or other suitable means shall be made of every rule-making and adjudicatory hearing. The record shall not be transcribed unless required for judicial review or unless ordered by the board. The party requesting the transcript shall pay for the transcription; in the case of judicial review, the payment shall be made by the party filing the appeal.

(f) Each party to a prohibited labor practice shall bear the cost of producing its own witnesses and paying its representative for hearings under this article.

(g) No regulation proposed to be adopted by the board that affects any person or governmental entity outside of the board and its staff shall be adopted, amended, or repealed without public hearing and comment on the proposed action before the board. The public hearings shall be held after notice of the subject matter of the regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views, and the method in which copies of the proposed regulation, proposed amendment, or repeal of an existing regulation may be obtained. All meetings shall be held at a county facility. Notice shall be published once at least 30 days prior to the hearing date in a newspaper of general circulation in the county, and notice shall be mailed at least 30 days prior to the hearing date to all persons who have made a written request for advance notice of hearings.

(Ord. No. 04-09-16.13, § 9, 9-16-2004)

Sec. 26-60. - Appropriate bargaining units.

(a) The board shall, upon receipt of a petition for a representation election filed by a labor organization, designate the appropriate bargaining unit. Appropriate bargaining units shall be established on the basis of occupational groups or clear and identifiable community of interest in employment terms, employment conditions, and related personnel matters among the employees involved. Occupational groups shall generally be identified as blue collar, secretarial, clerical, technical, paraprofessional, corrections, firefighters, and police officers. Department, craft, or trade designations other than as specified above shall not determine bargaining units. The parties, by mutual agreement and approval of the board, may further consolidate occupational groups. The essential factors in determining appropriate bargaining units shall include the principles of efficient administration of government, the history of collective bargaining, and the assurance to employees of their rights guaranteed by this article.

(b) If the labor organization and the employer cannot agree on the appropriate bargaining unit within 30 days, the board shall hold a hearing concerning the composition of the bargaining unit. Any agreement as to the appropriate bargaining unit between the employer and the labor organization is subject to the approval of the board.

(c) The board shall not include in any appropriate bargaining unit probationary, supervisory, managerial, or confidential employees.

(Ord. No. 04-09-16.13, § 10, 9-16-2004)

Sec. 26-61. - Elections.

(a) Whenever, in accordance with regulations prescribed by the board, a petition is filed by a labor organization containing the signatures of at least 30 percent of the employees in an appropriate bargaining unit, the board shall post a notice to affected employees regarding the filed petition and proceed with the process for conducting a secret ballot representation election.

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(b) Once a labor organization has filed a petition with the board requesting a representation election, other labor organizations may seek to be placed on the ballot. Any labor organization may file a competing petition containing the signatures of not less than 30 percent of the employees in the appropriate bargaining unit no later than ten calendar days after the board has posted a written notice that a petition for a representation election has been filed by a labor organization.

(c) All representation elections shall include the option for "no representation," except in a runoff election where the choice of "no representation" was not one of the two choices that received the highest votes.

(d) In the event of an election with two or more labor organizations on the ballot and none of the choices on the ballot received a majority of the votes cast, then a runoff election shall be held within 15 calendar days. The choices on the runoff election shall consist of two choices which received the greatest number of votes in the original election.

(e) A valid election requires that at least 40 percent of the eligible employees in an appropriate bargaining unit cast a vote. In an election with only one labor organization and the majority of the votes cast are in favor of representation, the board shall certify that labor organization as the exclusive representative for all the employees in the bargaining unit.

(f) No election shall be conducted if an election has been conducted in the 12-month period immediately preceding the proposed representation election. No election shall be held during the term of an existing collective bargaining agreement, except as provided in section 26-63(b), or after the expiration of the third year of a collective bargaining agreement with a term of more than three years.

(g) Election disputes shall be resolved by the board.

(h) As an alternative to the provisions of subsection (a) of this section, the employer and a labor organization with a reasonable basis for claiming to represent a majority of the employees in an appropriate bargaining unit may establish an alternative appropriate procedure for determining majority status. The procedure may include a labor organization's submission of authorization cards from a majority of the employees in an appropriate bargaining unit. The local board shall not certify an appropriate bargaining unit if the employer objects to the certification without an election.

(Ord. No. 04-09-16.13, § 11, 9-16-2004)

Sec. 26-62. - Exclusive representation—Generally.

A labor organization that has been certified by the board as the exclusive representative for employees in an appropriate bargaining unit shall represent all employees in the bargaining unit. The exclusive representative shall act for all employees in the bargaining unit and negotiate a collective bargaining agreement covering all employees in the bargaining unit. The exclusive representative shall represent the interests of all employees in the bargaining unit without discrimination or regard to membership or nonmembership in the labor organization. The existence of an exclusive bargaining representative shall not prevent employees from taking their grievances through the grievance process or filing prohibited practices with the board. Any settlement of a grievance or relief given on a prohibited practice brought by an individual shall not be inconsistent with or in violation of the collective bargaining agreement in effect between the employer and the exclusive representative or inconsistent with or in violation of a memorandum of understanding between the employer and the exclusive representative applicable to the day-to-day administration of the collective bargaining agreement. The exclusive representative shall be afforded the opportunity to be present at such hearings and make its views known.

(Ord. No. 04-09-16.13, § 12, 9-16-2004)

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Sec. 26-63. - Same—Decertification.

(a) Any member of a labor organization or the labor organization itself may initiate decertification of a labor organization as the exclusive representative if 30 percent of the employees in the appropriate bargaining unit make a written request to the board for a decertification election. A decertification election shall be valid only if at least 40 percent of the eligible employees in the bargaining unit vote in the election.

(b) When there is a collective bargaining agreement in effect, a request for a decertification election shall be made to the board no earlier than 90 days and no later than 60 days before the expiration of the collective bargaining agreement; provided, however, that a request for a decertification election may be filed at any time after the expiration of the third year of a collective bargaining agreement with a term of more than three years.

(c) When, within the time period prescribed in subsection (b) of this section, a competing labor organization files a petition containing signatures of at least 30 percent of the employees in the appropriate bargaining unit, a representation election rather than a decertification election shall be conducted.

(d) When an exclusive representative has been certified but no collective bargaining agreement is in effect, the board shall not accept a request for a decertification election earlier than 12 months subsequent to a labor organization's certification as the exclusive representative.

(Ord. No. 04-09-16.13, § 13, 9-16-2004)

Sec. 26-64. - Scope of bargaining.

(a) Except for retirement programs provided under the Public Employment Retirement Act, the parties shall bargain in good faith on all wages, hours, and other terms and conditions of employment and other issues agreed to by the parties. The parties shall enter into a written agreement covering employment relations regarding the issues agreed to in collective bargaining.

(b) Bargaining in good faith shall not require either party to agree to a proposal or to make a concession.

(c) The obligation to bargain collectively imposed by this article shall not be construed as authorizing employers and exclusive representatives to enter into any agreement that is in conflict with state statutes or federal statutes. In the event of conflict between the provision of any federal or state statutes and any agreement entered into by the employer and the exclusive representative, the former shall prevail.

(d) Payroll deduction of the exclusive representative's membership dues shall be a mandatory subject of bargaining if either party chooses to negotiate the issue. The amount of dues shall be certified in writing by an official of the labor organization and shall not include special assessments, penalties, or fines of any type levied by the exclusive representative. During the time that a board certification is in effect for a particular exclusive representative, the employer shall not deduct dues for any other labor organization from members of the same bargaining unit.

(e) Fair share is a permissive subject of bargaining.

(f) Any agreement or impasse resolution by the employer and an exclusive representative that requires the expenditure of funds shall be contingent upon the specific appropriation of funds by the governing body and the availability of funds to fund the agreed upon provision. An arbitrator's decision shall not require the reappropriation of funds.

(g) The parties have a requirement that a grievance procedure culminating with final and binding arbitration be negotiated. This applies only to grievances and the interpretation and application of the agreement between the parties and does not apply to negotiation impasses. The parties shall share the cost of any proceedings conducted pursuant to this subsection equally. Each party is responsible for paying any cost related to its witnesses and representation.

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(Ord. No. 04-09-16.13, § 14, 9-16-2004)

Sec. 26-65. - Negotiations and impasse resolution.

(a) The following meetings shall be closed:

(1) Meetings for the discussion of collective bargaining strategy between the governing body and the employer's negotiating team preliminary to negotiations sessions;

(2) Collective bargaining sessions; and

(3) Consultations and impasse resolution procedures at which the employer and/or the exclusive representative of the appropriate bargaining unit are present.

(b) The following negotiation procedures shall apply to the employer and exclusive representative:

(1) The negotiations for the first contract shall be opened upon written notice by either party to the other requesting that negotiating sessions be scheduled. Subsequent requests for negotiations shall be postmarked no earlier than 120 days nor later than 60 days prior to the contract ending date or as negotiated by the parties. The parties may open negotiations at any time by mutual agreement.

(2) All negotiations will be conducted in closed sessions. Negotiations will be held at a facility and at a time mutually agreed upon by the parties.

(3) Recesses and study sessions may be called by either team. Prior to the conclusion of any negotiating sessions, the reconvening time will be agreed upon. Caucuses may be taken as needed.

(4) Tentative agreements reached during negotiations will be reduced to writing, dated, and initiated by each team spokesperson. Such tentative agreements are conditional and may be withdrawn should later discussion change either party's understanding of the language as it related to another part of the agreement.

(5) Agreement on contract negotiations is accomplished when the union president and the county manager sign the agreement. Provisions in multi-year agreements providing for economic increases for subsequent years shall be contingent upon the governing body appropriating the funds necessary to fund the increase for the subsequent years. Should the governing body not appropriate sufficient funds to fund the agreed upon increase, either party may reopen negotiations.

(c) The following impasse procedure shall be followed by the employer and exclusive representative:

(1) If an impasse occurs, either party shall request mediation assistance. If the parties cannot agree on a mediator, either party may request the assistance of the federal mediation and conciliation service.

(2) If the impasse continues after 30 calendar days, either party may request an unrestricted list of seven arbitrators from the federal mediation and conciliation service. The parties shall choose one arbitrator by alternately striking names from such list. Which party strikes the first name shall be determined by coin toss. The arbitrator shall render a final, binding, written decision resolving unresolved issues no later than 30 calendar days after the arbitrator has been notified of his selection by the parties. The arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offer. However, an impasse resolution decision of an arbitrator or an agreement provision by the employer and an exclusive representative that requires the expenditure of funds shall be contingent upon the specific appropriation of funds by the governing body and the availability of funds. An arbitrator's decision shall not require the employer to re-appropriate funds. The parties shall share all of the arbitrator's costs incurred pursuant to this subsection equally. Each party shall be responsible for paying any costs related to its witnesses and representation; the decision shall be subject to judicial review pursuant to the standards set forth in the Uniform Arbitration Act.

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(3) In the event that an impasse continues after the expiration of a contract, the existing contract will continue in full force and effect until it is replaced by a subsequent written agreement. However, this shall not require the employer to increase any employees' levels, steps, or grades of compensation contained in the existing contract.

(Ord. No. 04-09-16.13, § 15, 9-16-2004)

Sec. 26-66. - Prohibited practices.

(a) A public employer or his representative shall not:

(1) Discriminate against an employee with regard to terms and conditions of employment because of the employee's membership in a labor organization;

(2) Interfere with, restrain, or coerce any employee in the exercise of any right guaranteed under this article;

(3) Dominate or interfere in the formation, existence, or administration of any labor organization;

(4) Discriminate in regard to hiring, or any term or condition of employment in order to encourage or discourage membership in a labor organization;

(5) Discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition, grievance, or complaint or given any information or testimony under the provisions of this article or because an employee is forming, joining, or choosing to be represented by a labor organization;

(6) Refuse to bargain collectively in good faith with the exclusive representative;

(7) Refuse or fail to comply with any provisions of this article, board regulations, or the Public Employee Bargaining Act; or

(8) Refuse or fail to comply with any collective bargaining agreement; this issue is subject to the required grievance procedure negotiated by the parties.

(b) During the negotiation and the impasse procedure, county commissioners and management employees are prohibited from negotiating issues which are the subject of negotiations and from making any offers, commitment, or promise whatsoever to employees or the exclusive representative, other than through the appointed county negotiating team. It is the intent of this language that the integrity of the negotiating process be maintained. All negotiations and concessions shall occur only between the respective appointed negotiating teams.

(Ord. No. 04-09-16.13, § 16, 9-16-2004)

Sec. 26-67. - Employees, labor organizations; prohibited practices.

(a) An employee, a labor organization, or its representative shall not:

(1) Discriminate against an employee with regard to labor organization membership because of race, color, religion, creed, age, disability, sex, or national origin;

(2) Solicit membership for an employee or labor organization during the employee's duty hours; this does not include the work breaks or lunch periods;

(3) Restrain or coerce any employee in the exercise of any right guaranteed by the provisions of this article;

(4) Refuse to bargain collectively in good faith with the employer;

(5) Refuse or fail to comply with any collective bargaining agreement with the employer; this issue is subject to the required negotiated grievance procedure negotiated by the parties;

(6) Refuse or fail to comply with any provision of this article;

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(7) Picket homes or private businesses of employees, appointed individuals, or election officials of the county;

(8) Restrain or coerce the employer in the selection of its agent for bargaining.

(b) During the negotiation and the impasse procedure, the employees, the exclusive representative or any of its employees are prohibited from negotiating issues which are the subject of negotiations with anyone other than the appointed county negotiating team. It is the intent of this language that the integrity of the negotiating process be maintained. All negotiations and concessions shall occur only between the respective appointed negotiating teams.

(Ord. No. 04-09-16.13, § 17, 9-16-2004)

Sec. 26-68. - Strikes and lockouts prohibited.

(a) No employee or labor organization shall engage in a strike. No labor organization shall cause, instigate, encourage, or support a strike. The employer shall not cause, instigate, or engage in an employee lockout.

(b) The employer may apply to the district court for injunctive relief to end a strike, and an exclusive representative of public employees affected by a lockout may apply to the district court for injunctive relief to end a lockout.

(c) The board, upon a clear and convincing showing of proof at a hearing that a labor organization directly caused or instigated an employee strike, may impose appropriate penalties on that labor organization, up to and including decertification of the labor organization with respect to any of its bargaining units which struck as a result of such causation or instigation. A strike means an employee's refusal, in concerted action with other employees, to report for duty or his willful absence or withholding of service in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the working conditions, compensation, rights, privileges or obligations of employment.

(Ord. No. 04-09-16.13, § 18, 9-16-2004)

Sec. 26-69. - Agreements valid; enforcement.

All collective bargaining agreements and other agreements between the employer and exclusive representative are valid and enforceable according to their terms when entered into in accordance with the provisions of the labor management relations board.

(Ord. No. 04-09-16.13, § 19, 9-16-2004)

Sec. 26-70. - Judicial enforcement; standard of review.

(a) The board may request the district court to enforce any order issued pursuant to this article, including those for appropriate temporary relief and restraining orders. The court shall consider the request for enforcement on the record made before the board. The court shall uphold the action of the board and take appropriate action to enforce it unless the court concludes that the order is:

(1) Arbitrary, capricious, or an abuse of discretion;

(2) Not supported by substantial evidence on the record considered as a whole; or

(3) Otherwise not in accordance with law.

(b) Any person or party, including a labor organization, affected by a final regulation, order, or decision of the board may appeal to the district court for further relief. All such appeals shall be based upon the record made at the board hearing. All such appeals to the district court shall be taken within 30

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calendar days of the date of the final regulation, order, or decision of the board. Actions taken by the board shall be affirmed unless the court concludes that the action is:

(1) Arbitrary, capricious, or an abuse of discretion;

(2) Not supported by substantial evidence on the record taken as a whole; or

(3) Otherwise not in accordance with law.

(Ord. No. 04-09-16.13, § 20, 9-16-2004)

FOOTNOTE(S):

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State Law reference— Public employee bargaining, NMSA 1978, § 10-7D-1 et seq, (Back)

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Chapter 27 - RESERVED

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Chapter 28 - PUBLIC SERVICES

ARTICLE I. - IN GENERAL

ARTICLE II. - INDIGENT HOSPITAL AND HEALTH CARE

ARTICLE I. - IN GENERAL

Secs. 28-1—28-18. - Reserved.

Secs. 28-1—28-18. - Reserved.

ARTICLE II. - INDIGENT HOSPITAL AND HEALTH CARE

Sec. 28-19. - Title.

Sec. 28-20. - Purpose.

Sec. 28-21. - Definitions.

Sec. 28-22. - Administration.

Sec. 28-23. - Indigent fund.

Sec. 28-24. - Eligible health care provider responsibilities.

Sec. 28-25. - Payment of claims.

Sec. 28-26. - Sole community providers.

Sec. 28-19. - Title.

Be it ordained by the board of county commissioners, the governing body of the county, that the "Indigent Hospital and Health Care Ordinance" establishing the county's indigent program policy is hereby established.

(Ord. No. 09-11-19.7A, § 2, 11-19-2009)

Sec. 28-20. - Purpose.

Pursuant to NMSA 1978, § 27-5-1 et seq., the Indigent Hospital and County Health Care Act, as amended, the county recognizes it is responsible for ambulance transportation, inpatient hospital care and the provision of health care to indigent patients domiciled in the county for at least 90 days; and by the previous enactment of County Gross Receipts Tax Ordinance No. 56623, effective January 1, 1991, imposing an excise tax of one-eighth of one percent of the gross receipts (NMSA 1978, § 7-20E-9, as amended) establishing the indigent fund to provide a means to discharge this Act's obligations; and pursuant to article 10 of the Statewide Health Care Act (NMSA 1978, § 27-10-1 et seq., as amended) enacted by Ordinance No. 82477, effective December 2, 1995, the county hereby dedicates to the county-supported Medicaid fund an amount equal to a gross receipts tax rate of one-sixteenth of one percent applied to the taxable gross receipts reported during the prior fiscal year by persons engaging in business in the county and, upon certification by the tax and revenue department, transfer the one-

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sixteenth of one percent in four quarterly increments of 1/64 of one percent by the last day of March, June, September and December of each year.

(Ord. No. 09-11-19.7A, § 3, 11-19-2009)

Sec. 28-21. - Definitions.

All terms shall be consistent with the definitions set forth in NMSA 1978, § 27-5-4, as amended, with the supplementation of the following terms. In order to discharge its responsibilities of the Indigent Hospital and County Health Care Act and the Statewide Health Care Act, the terms shall in all cases be interpreted to accomplish the purposes of the Acts.

Act or *Acts* means the Indigent Hospital and Health Care Act, NMSA 1978, § 27-5-1 et seq., as amended, and/or the Statewide Health Care Act, NMSA 1978, § 27-10-1 et seq., as amended.

Applicant means the patient or an interested party applying on behalf of the applicant, who may be the patient, the patient's spouse or parent/guardian, if the patient is a minor, or the guarantor of the health care service In the event of the patient's death, the executor, administrator, personal representative, any relative or person responsible for the patient's hospital/ambulance bill or an interested party providing information on behalf of the deceased may be an applicant.

Board means the board of county commissioners acting in their capacity to discharge its responsibilities pursuant to the Acts.

Community services director means the county community services director.

Cost means all allowable ambulance costs, medical costs or the costs of providing health care services, to the extent determined by action of the board, for an indigent patient. Allowable costs shall be based on Medicaid fee-for-service reimbursement rates for hospitals, licensed medical doctors and osteopathic physicians, but shall not include the cost of serving long-term indebtedness of a hospital, health care provider or ambulance service.

County assistance means the financial assistance provided by the county to qualifying indigent patients by this article and pertinent policy and/or the indigent hospital and health care operating manual as adopted by the board.

Documentation means the records used to establish income, residency, assets, household composition or documents from a state or federal agency that fulfill the county's indigent health care programs application eligibility process.

Domicile means the permanent, fixed, and established dwelling, within the county, where the indigent patient resides continually for a minimum of 90 consecutive calendar days.

Dwelling means a person's actual place of shelter lived in, a place of residence, an abode or a home.

Family/household income means the earnings of a household whose income to be included are those members who are financially dependent on each other. All sources of income, earned or unearned, by members of the household may be considered to assess income eligibility.

Fund means the county indigent-special revenue fund established by the board and maintained by the county treasurer, consisting of the revenues generated from the one-eighth of one percent indigent gross receipts tax.

Health care assistance program means the program established by the county to accomplish the purpose of this article and to comply with the Acts.

Health care services means treatment and services designed to promote improved health in the county indigent population, including primary care, prenatal care, dental care, provision of prescription medications, preventive care or health outreach, to the extent approved by the board in the county's annual budget.

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Income guidelines means 185 percent of the most recently published federal poverty level or as adopted by the board in the county budget.

Indigent person means a person as defined pursuant to NMSA 1978, § 27-5-4.C.

Legal custody means a court order declaring a person solely responsible for the welfare of a minor or incompetent person.

Licensed funeral home means a funeral home licensed in the state.

(Ord. No. 09-11-19.7A, § 4, 11-19-2009)

Sec. 28-22. - Administration.

(a) The board shall, in its annual budget, set the health care assistance program's annual appropriation, including funds for the county-supported Medicaid fund administrative and planning functions. By the first meeting of the new fiscal year the board will adopt by resolution the program's income guidelines, a listing of the program's health care services and the criteria and cost limitation for medical care to be provided by both licensed in-state and out-of-state providers by the program. The board shall act on claims that are placed on the published agenda by the county manager at a regular or special board meeting. Rejection or disapproval of claims must be in writing.

(b) The board will authorize the county manager to render a decision on behalf of the county commission on any appeals claims.

(c) The board may contract with ambulance providers, hospitals or health care providers for the provision of health care services; review, verify and approve sole community hospitals, non-sole community provider hospitals; and take other actions to comply with the Acts.

(d) The county manager shall appoint and supervise a community services director who shall administer this article and abide by the board's adopted health care assistance program's budget, policies, procedures and/or operating manual.

(e) The director shall prepare for the board's action the annual report on all indigent health care funding, eligibility criteria, services provided by the program, conditions for reimbursement and other information required in the form provided by the state policy commission by October 1 of each year.

(f) The director is responsible to review the federal poverty guidelines, the program's reimbursement and service guidelines, the fund's balance and projected revenue to determine if the program's standard for indigence needs to be modified and submit his recommendations to the county manager for presentation to the board for their action.

(g) The director shall prepare an annual report on the health care assistance program.

(Ord. No. 09-11-19.7A, § 5, 11-19-2009)

Sec. 28-23. - Indigent fund.

(a) The county indigent fund, as established by the county treasurer, shall consist of the revenue generated solely from the one-eighth of one percent gross receipts tax for indigent care, and shall not in any circumstance exceed the amount dedicated by the board in the approved annual budget. Any remaining balance at the close of the fiscal year shall remain in the fund. No funds shall be transferred out of the fund; however, transfers in to the fund can be made if approved by the board. All payments for indigent hospital and health care services shall be made from the fund.

(b) The fund shall be used to:

(1) Meet the county's contribution for support of sole community provider payments as calculated by the tax and revenue department.

(2) Pay for expenses of burial or cremation of an indigent person.

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(3) Pay all claims that have been approved by the board that are not matched with federal funds under the Medicaid program.

(c) The fund may be used to meet the county's obligation under NMSA 1978, § 27-10-4, as amended.

(d) The fund shall be audited in the manner that all county funds are audited, and all records of payments and verified statements of qualifications upon which payments were made from the fund shall be public record.

(Ord. No. 09-11-19.7A, § 6, 11-19-2009)

Sec. 28-24. - Eligible health care provider responsibilities.

(a) Data required by any in-state or out-of-state hospitals, ambulance services and health care providers shall be sent to the director for presentation to the board.

(b) An ambulance service, hospital or health care provider in the state or licensed out-of-state hospital, prior to filing a claim, shall have placed on file with the county:

(1) Current data, statistics, schedules and information deemed necessary by the program to determine the cost for all patients in that hospital or cared for by that health care provider or tariff rates or charges of an ambulance service.

(2) Proof that the hospital, ambulance service or health care provider is licensed under the laws of this state or the state in which the hospital operates.

(3) Other information or data deemed necessary by the program.

(c) If the county is granted funding for sole community provider hospitals, the hospital requesting or receiving Medicaid sole community provider payments shall:

(1) Accept indigent patients and request reimbursement for those patients through the health care assistance program. The program, upon approval of the board, shall inform the hospital of the board's action;

(2) Confirm the amount of payment authorized by the program for the previous fiscal year by September 30 of each year;

(3) Negotiate with the program the amount of indigent hospital payments anticipated for the following fiscal year by December 31 of each year;

(4) Provide the human services department, prior to January 15 of each year, the amount of the authorized indigent payments anticipated for the following fiscal year after an agreement has been reached with the county; and

(5) Such other information as the department may request.

(Ord. No. 09-11-19.7A, § 7, 11-19-2009)

Sec. 28-25. - Payment of claims.

(a) A hospital, ambulance service or health care provider filing a claim with the program shall:

(1) File a claim for each patient separately with a detail itemized statement of the total cost.

(2) File with the claim a verified applicant statement of qualification for ambulance service, indigent hospital care or care from a health care provider signed by the patient or by the parent or person having custody to the effect that he qualifies under the provision of the Act. The statement shall constitute an oath of the person signing it, and any false statements made knowingly constitute a felony.

(b) The program will notify the patient or responsible party in writing of their reason for denying a claim and provide an administrative appeal process where the patient/responsible party or representative

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can provide records/documentation that the program's reason for recommending denial was made in error.

(c) Any hospital, health care provider or ambulance service aggrieved by any decision of the board may appeal to the district court pursuant to the provisions of NMSA 1978, § 39-3-1.1.

(d) All claims made to the program shall not expire or become invalid due to the lack of money in the fund during any fiscal year, but shall be carried over into the ensuing fiscal year and paid upon approval of the next year's budget.

(e) The payment of any claim to an ambulance service, a hospital or health care provider on behalf of an indigent patient creates a preferred claim in favor of the fund against the estate of the indigent patient. Proceeds recovered from such claims will be deposited in the fund. Any lien created by the payment of a claim shall be released due to the lapse of time after 14 years has passed.

(Ord. No. 09-11-19.7A, § 8, 11-19-2009)

Sec. 28-26. - Sole community providers.

The board, upon authorizing payments to a sole community provider hospital, shall:

(1) Determine eligibility for benefits and determine an amount payable on each claim for services to indigent patients.

(2) Notify the sole community provider hospital of its decision on each request for payment while not actually reimbursing the hospital for the services that are reimbursed with federal funds under the Medicaid program.

(3) Confirm the amount of the sole community provider hospital payments authorized for each hospital for the past fiscal year by September 30 of the current fiscal year based on a report prepared by the hospital using a format prescribed by the program.

(4) Negotiate agreements with each sole community provider hospital providing services for county residents on the anticipated amount of the payments for the following fiscal year.

(5) Provide the human services department by January 15 of each year with the budgeted amount of sole community provider, by hospital, for the following fiscal year.

(Ord. No. 09-11-19.7A, § 9, 11-19-2009)

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Chapter 29 - RESERVED

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Chapter 30 - SPECIAL DISTRICTS

ARTICLE I. - IN GENERAL

ARTICLE II. - PUBLIC IMPROVEMENT DISTRICTS

ARTICLE I. - IN GENERAL

Secs. 30-1—30-18. - Reserved.

Secs. 30-1—30-18. - Reserved.

ARTICLE II. - PUBLIC IMPROVEMENT DISTRICTS [1]

Sec. 30-19. - General policies.

Sec. 30-20. - Pre-application discussion with county staff.

Sec. 30-21. - Content of application.

Sec. 30-22. - Application and approval process.

Sec. 30-23. - PID operations and debt financing.

Sec. 30-24. - Miscellaneous provisions.

Sec. 30-19. - General policies.

(a) *General use.* Public improvement districts (PIDs) should be utilized primarily in connection with the financing of infrastructure for development of residential projects, master planned communities or substantial commercial development and redevelopment. PIDs may also be used to provide an enhanced level of public infrastructure amenities and/or services. In order to avoid inefficient use of the limited resources of the county, unless otherwise agreed by the board of county commissioners, PIDs will not be approved to finance less than $5,000,000.00. The county's approval of a PID shall be based on an applicant's demonstration, to the reasonable satisfaction of the county, that the PID will provide a benefit to the end-users of the PID-financed infrastructure or to the county, which benefit may include, without limitation, additional amenities, services, increased quality of development or pricing benefits. A master planned development which has had a fiscal impact analysis which demonstrates that the cost of infrastructure delivery to the development will not have a net cost to the county will be deemed to have met the end-user benefit requirements of the county. Public improvements financed by a PID should conform to applicable county policies for development. Real property dedications and conveyances required by existing county policies for development, growth management and conservation shall remain in effect notwithstanding the establishment of a PID.

(b) *Costs and expenses.* Unless otherwise agreed by the county, all costs and expenses incurred by the county in connection with the review of a PID application and the formation of a PID shall be paid by the applicant through advance payments as provided in sections 30-22(a) and 30-23(a). Costs and expenses incurred by the county in connection with the application and formation of a PID shall not be liabilities of the county. Costs and expenses shall include the costs of services rendered by county staff and services rendered by outside consultants who may be retained by the county,

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including, but not limited to, bond counsel and other attorneys, financial advisers, engineers, appraisers, and tax consultants at the rates normally charged by those consultants.

(c) *Reimbursement.* If authorized by the PID, all or part of such costs may be reimbursed to the applicant from a PID tax levy, PID special levies, PID revenues or PID bond proceeds, provided that such reimbursement shall be in conformity with federal law, state law and these guidelines. Except as otherwise agreed by the county, PIDs will construct or finance improvements on such terms and with such persons as the PID board of directors determines to be appropriate, in accordance with section 5-11-10(D) of the Act, as amended. Public infrastructure constructed within the boundaries of the PID may be dedicated to and accepted by either the county or the PID. Unless otherwise agreed by the county, all costs of administration and operation of the PID and the operation and maintenance of public infrastructure in the PID which has not been dedicated to and accepted by the county shall be the responsibility of the PID, the applicant, applicable homeowners associations, or any combination of the foregoing, as may be acceptable to the county and the PID.

(d) *PID board of directors; delegated authority.* The PID initially shall be governed by a board of directors comprised of members of the board of county commissioners, ex officio, or, at the option of the board of county commissioners, five directors appointed by the board of county commissioners (the PID board). The board of county commissioners may, in accordance with law, delegate certain responsibilities of governance of the PID to public officials, staff and consultants employed by the county. The day-to-day responsibilities of the PID may be performed by outside personnel pursuant to an agreement (including a PID development agreement, constituting a development agreement pursuant to section 5-11-10(A)(2) of the Act), or the county staff (which development agreement may be denominated a "PID development agreement" or otherwise, at the parties' discretion, in order to avoid confusion with other development agreements entered into by the parties with respect to real property within the county). Each PID development agreement shall comply with this article, provided that the development agreement may contain certain terms and conditions more stringent than those set forth in this article. On a date not more than six years after the formation of a PID, new PID board members shall be elected, or the governance of the PID shall revert to five members of the board of county commissioners, in accordance with the Act.

(e) *No impact on county.* Unless otherwise agreed to by the county, the PIDs must be self-supporting with regard to financing, operations and maintenance, and no county funds shall be required to be used for PID purposes. Notwithstanding anything to the contrary which may be contained herein, neither the county's property, the full faith and credit nor the taxing power of the county shall be pledged to the payment of any PID obligation or similar indebtedness. The amount and structure of debt of a PID should not have any direct or indirect negative material impact on the county's debt ratings with Standard & Poor's Corporation, Moody's Investors Services, Inc., Fitch Investor Services, Inc., or any other nationally recognized bond-rating agency service then rating the county's outstanding bonds.

(f) *PID development agreement; feasibility reports.* The amount, timing and form of financing to be used by a PID shall be determined by the PID board based upon a project feasibility report and established by agreement of the county, the PID and the applicant through a PID development agreement pursuant to NMSA 1978, § 5-11-10(A)(2) of the Act.

(Ord. No. 07-06-21.12A, § 1, 6-21-2007)

Sec. 30-20. - Pre-application discussion with county staff.

(a) *PID review staff; preliminary tasks.* The county hereby appoints a PID review staff, which shall be comprised of the county manager, county development and additional staff designated by the county manager. The PID review staff is authorized to obtain the input and recommendation of the county's bond counsel and financial advisor, and from other county personnel concerning the legal, financial, operational and administrative feasibility of the proposed PID financing and/or delivery of enhanced services and the sufficiency of the application and supporting documents. Each PID applicant shall meet with the PID review staff, which shall do the following:

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(1) Make an initial assessment whether the proposed PID is consistent with the county's growth policies, land use and development policies, zoning and other applicable regulations;

(2) Identify any related county approvals that will be required to permit the PID, if approved by the board of county commissioners, to construct the proposed improvements;

(3) Make an initial determination whether the PID applicant's ownership interest, delegation of ownership rights or other legal control of the real property proposed to be included in the PID have standing to submit a PID application;

(4) Establish a proposed schedule for:

a. The applicant's submittal of a PID application;

b. County PID staff review of the application for completeness; and

c. Board of county commissioners meetings for its consideration of and action on the application.

(b) *Role of PID review staff.* The determinations of the PID review staff shall be of an advisory nature, for the purposes of assisting applicants in submitting completed applications with detail and information required to enable meaningful consideration by the board of county commissioners. Staff determinations and recommendations shall be considered by, but not be binding on, the board of county commissioners.

(c) *Invitation to apply for PID.* If the PID review staff concludes that an application is consistent with applicable county ordinances, regulations, and policies, including this article, then an invitation to submit an application will be extended to the applicant and the PID review staff will advise the applicant of the requested application contents in the matter set forth in section 30-21. If the PID review staff concludes that the application is inconsistent with applicable county ordinances, regulations and policies including this article, then the PID review staff will notify the applicant that the applicant will not receive an invitation to submit an application. The applicant may appeal to the board of county commissioners the decision of the PID review staff not to extend an invitation to submit an application.

(Ord. No. 07-06-21.12A, § 2, 6-21-2007)

Sec. 30-21. - Content of application.

Based on the recommendations of the PID review staff or the board of county commissioners, the application should include the following information and documentation:

(1) *Legal description; consent.* A description of the proposed PID, including a legal description of its boundaries, identity and addresses of all persons or entities with any interest in the property, and the names and addresses of any qualified electors, as defined in NMSA 1978, § 3-1-2(K), located within the proposed boundaries. A current title report on the property and a certificate from the county clerk shall be submitted as evidence of the names of persons with any interest in the land and qualified electors located within the proposed PID boundaries. Evidence satisfactory to the county of the irrevocable, unanimous consent of the number of property owners and qualified electors required by the Act for the creation of the PID shall be submitted.

(2) *General plan.* A detailed description of the types of public infrastructure to be financed by the PID, including the estimated construction or acquisition costs of the public infrastructure, projection of working capital needs, including adequate funds for repair and replacement of infrastructure, the annual operation and maintenance costs of the public infrastructure and the governmental approvals that shall be required for both the public and private improvements to be constructed and operated. The description shall contain adequate information to establish financial parameters for the operation and financing of the PID as set forth in section 30-23

(3) *Preliminary financing plan and schedule.*

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a. A proposed project schedule for construction commencement and completion of the public infrastructure and the private development, which shall include a financing plan for the public infrastructure, including both capital and operating/maintenance costs for all improvements that will not be dedicated to or accepted by the county but will be operated and maintained by the PID.

b. The financing plan shall include projections for a period which shall be the longer of:

1. The expected term of existence of the PID;

2. 30 years following the creation of a PID property tax or special levy; or

3. The final maturity date of any bonds issued by the PID.

c. The financing plan shall include:

1. The estimated costs of improvements;

2. Projected costs of maintenance after construction; and

3. A preliminary description of the improvements to be owned and maintained by the county and the PID.

(4) *Feasibility study.* A financial feasibility study prepared by an independent professional with appropriate expertise for the entire project (or such phases of the project that are expected to be constructed during the term of the development), covering both the public infrastructure and the private development. The feasibility study shall include:

a. An analysis of how the proposed debt financing, operation and maintenance costs, user charges and other PID costs shall impact the ultimate end users of the property.

b. Specifically projected property taxes, property tax rates, special levies, special assessments, fees, charges and other costs that would be borne by property in the PID and an analysis of the potential impact that these taxes, levies and charges will have on the marketability of the private development and a comparison of proposed tax rates and charges in adjoining and similar areas outside of the proposed PID.

(5) *Appraisal.* To the extent applicable to a request for debt financing, the applicant shall provide a current appraisal (the MAI appraisal) of the fair market value of the property within the proposed PID, including the improvements to be financed by the PID and other improvements being constructed by the applicant during the PID construction period, the completion of which is guaranteed by the applicant. The MAI appraisal shall be prepared by a person who is designated as a member appraisal institute (MAI) and a certified general real estate appraiser (such person hereafter referred to as an MAI appraiser). The form and substance of the MAI appraisal shall be acceptable to the county, in its discretion.

(6) *Market demand study.* To the extent applicable, a market demand study for the private development in the PID prepared or reviewed and concurred with by an independent consultant acceptable to the county. Such study shall include estimates of the revenue to be generated by the development and estimated market absorption of the private development.

(7) *Applicant financial information.* Upon the request of the county, a description of the applicant's professional experience and evidence demonstrating its financial capacity to undertake the development associated with the public infrastructure and private development. Such information may be accompanied by audited, reviewed or, at minimum, compiled financial statements for the most recent three years, and a description of past projects and disclosure of any material litigation.

(8) *Draft disclosure.* An initial draft form of disclosure to prospective PID landowners which may be filed and recorded with the county clerk at the time of each sale of real property within the PID, describing the anticipated and maximum tax, special levy, assessment, charge, and any other financial obligation that is anticipated to be imposed on real property within the PID, which shall be subject to county review and approval.

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(9) *Operating plan.* An operating plan for the PID describing the operation and maintenance of the infrastructure and all other services in the PID, the estimated costs of the same, and whether operation and maintenance is proposed to be provided by the PID or by the county.

(10) *Compliance statement.* A statement describing any zoning or other development approvals that must be obtained in order to construct the improvements proposed to be financed by the PID, as well as any approvals required for the overall development of the real property which is to be served by the proposed PID.

(11) *Other information.* Such other information as the county may reasonably require after its initial review of the application, including, but not limited to, preliminary legal opinions, further information regarding the relationship of the application to county's development objectives, additional proof of financial capability, business references, term sheets for financing and financial commitment letters. Following the application conference, the county shall, within 15 days, provide a list of the additional information items needed which is as complete as practicable.

(Ord. No. 07-06-21.12A, § 3, 6-21-2007)

Sec. 30-22. - Application and approval process.

(a) *Application submission.* Ten copies of an application for the formation of a PID and an application fee of $25,000.00 shall be submitted to the county manager.

(b) *Application fees.* The application fee shall be utilized by the county for initial application review and project feasibility analysis, including the payment of the county's financial and legal advisors, at their customary rates, to assist in the evaluation of the feasibility of the proposed PID project. Five thousand dollars of the application fee shall be nonrefundable. The balance of the application fee shall be used by the county in connection with its review of the application. If the applicant withdraws its application prior to the county's completion of its application review, the county shall remit the unused portion, if any, of the application fee (but not the nonrefundable $5,000.00 portion) to the applicant. Upon the applicant's request, the county will provide an accounting of expenditures of funds advanced. Any unused portion of advances shall be refunded to the applicant at such time as the county determines that all costs and expenses have been paid. The county and its legal consultants shall use reasonable efforts to determine whether any features of a PID proposed in an application appear not to be feasible, and to advise the applicant early in the review process, for the purpose of avoiding unnecessary additional costs of review.

(c) *Post application conference.*

(1) After the application fee has been submitted, the county manager will arrange a conference with the appropriate PID review staff for the purpose of reviewing the application and determining whether the application is complete. The PID review staff will use its best efforts to review the application and conduct the initial conference within 30 days following receipt of the application and payment of the application fee.

(2) If, following the application conference or any other time during the application process, the PID review staff requests additional information, the applicant shall provide any and all supplemental information requested, in accordance with the provisions of section 30-21(11).

(d) *PID review staff report.*

(1) After analysis of an application as supplemented, the PID review staff, under the direction of the county manager or his designee, will prepare a report including recommendations relating to the PID, and an analysis of the impact of the formation of the PID and its effects on the county. The report may provide a recommended disposition of the application and any additional requirements that are recommended in connection with the applicant and/or the PID. The county shall use its best efforts to complete the analyses and report concerning the application

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within 15 days following the initial application conference. Recommendations of the PID review staff are advisory and are not binding on the board of county commissioners.

(2) If all costs billed to or incurred by the county have been paid by the applicant by a date at least 14 days prior to the date of the meeting of the board of county commissioners at which the appropriate resolution approving the application is to be introduced, and, if the application meets the qualifications provided herein, the application, along with any report and recommendations by the PID review staff, will be forwarded to the board of county commissioners, along with drafts of the appropriate implementing resolution.

(e) *PID development agreement.* The applicant and the staff of the county shall coordinate a schedule of events for formation of the PID and shall negotiate an appropriate PID development agreement between the county and the applicant which shall be entered into prior to formation of the PID which, if approved by the board of county commissioners, shall incorporate the recommendations of the PID review staff relating to such PID, and any other restrictions, provisions and agreements required by the county.

(f) *Preliminary approval.*

(1) An applicant may request preliminary, nonbinding approval of its PID application by the board of county commissioners (preliminary approval).

(2) A request for preliminary approval will be considered following payment of the application fee and information such as the following:

a. A description of the proposed PID's boundaries;

b. A description of the improvements to be constructed by the applicant;

c. The estimated construction costs of the improvements and anticipated completion time;

d. A description, by category, of improvements and related costs to be financed by the PID;

e. The estimated issuance amount of PID bonds;

f. The total annual special levy amount (i.e., estimated aggregate annual debt service on bonds); and

g. The maximum annual PID property tax or, in the case of a special levy, the allocation method and maximum special levy per dwelling unit (single-family residences) or per acre (multifamily and commercial), and method by which the levy will be allocated from a bulk tract to finished lots.

(3) The PID review staff report will advise the board of county commissioners whether preliminary approval is recommended, not recommended, or that no recommendation is made.

(g) *Additional fees.* An applicant that has received preliminary approval may be required to make additional advances as the county staff determines are necessary to pay the costs of reviewing the applicant's request for formal approval of the formation of the PID based on a PID development agreement within the meaning of the Act. An applicant may be required to submit an additional application fee if, in county staff's determination, the application for formal approval of a PID departs substantially from the parameters set forth in the application for preliminary approval.

(h) *Approval of PID formation and PID financing.* The board of county commissioners may consider the granting of formal approval to the formation of the PID based on the terms of the PID development agreement which may be approved prior to or concurrently with the approval of the formation of the PID. The board of county commissioners may include in its approval of the formation of the PID the issuance of one or more series of PID bonds, subject to the terms and conditions of the PID development agreement. The board of county commissioners' approval of PID formation and issuance of bonds shall be conditioned on the requirement that the PID shall utilize bond counsel, underwriters and/or other consultants selected by or otherwise acceptable to the county. PID development agreements shall not be amended without the express written approval by the board of county commissioners.

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(Ord. No. 07-06-21.12A, § 4, 6-21-2007)

Sec. 30-23. - PID operations and debt financing.

(a) *PID administration expense fee.* In addition to the amounts set forth in section 30-22(a), upon formation of a PID the applicant shall deposit with the PID a nonrefundable administrative expense fee (the administrative expense fee) in the amount of $5,000.00. The administrative expense fee shall be applied by the PID to the costs and expenses incurred in connection with the formation, election costs, administration, operation and maintenance of the PID or its public improvements. From time to time, upon depletion of the administrative expense fee, the PID may request, and the applicant shall promptly deposit with the PID, additional amounts deemed by the PID to be reasonably necessary for the purposes contemplated in this subsection. Nothing in this subsection shall preclude the reimbursement of such expenses from PID taxes, levies, charges or bond proceeds, as permitted by the Act.

(b) *Administration, operation and maintenance charges.* In order to provide for the PID to be self-supporting for its administrative, operation and maintenance expenses, and to finance services in addition to those provided by the county, the county may condition its approval of a PID upon the PID's imposition of up to $3.00 per $1,000.00 of assessed value ad valorem tax. The PID's imposition of such administration, operation and maintenance charges would not be a tax or charge of the county, but would be imposed in accordance with the provisions of NMSA 1978, § 5-11-23, as amended, upon the PID taxable property, for the administration, operation and maintenance of property which is not county-owned infrastructure otherwise maintained by the county. However, to the extent permitted by law, the PID shall be entitled to charge such rates, fees and charges to property owners as are necessary to address any shortfall in the expense required to operate and maintain the PID's improvements. Such rates, fees and charges shall be established in the development agreement for the PID. Nothing in this section shall be construed as limiting the authority of a PID to impose a special levy or other PID charges for administration, operation and maintenance expenses to the extent permitted under the Act and determined to be feasible by the county or the PID board, as applicable.

(c) *General obligation bonds.*

(1) General obligation bonds of the PID shall be payable from an ad valorem tax on all taxable property located within the PID designated by the general plan for the PID as subject to the PID property tax as required by the Act.

(2) An applicant for general obligation bonds shall describe to the PID board in a project feasibility report the following:

a. The current direct and overlapping tax and assessment burden on the taxable property that is proposed to be taxed and the fair market value and assessed valuation of the taxable property as shown on the most recent assessment roll.

b. The projected amount and timing of PID general obligation bonds to be issued.

c. The projected market absorption of development within the PID.

d. The effect of the PID bond issuance on PID tax rates, calculated at the beginning, middle and end of the market absorption period or based on the phasing of the project to be financed, as applicable.

e. An estimate of the applicant's construction costs associated with the public improvements, in excess of the estimated PID funded costs of the project.

f. The necessity of the applicant and the PID entering into a contribution agreement, which may require a letter of credit or other third-party guarantee by the applicant.

(3) The projected tax rate for debt service set forth in the feasibility report shall be established in the PID development agreement, and may include provisions which:

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a. Limit the maximum tax rate that will be imposed by the PID for the payment of debt service on PID bonds;

b. Require a contribution agreement from the applicant for the payment of debt service in the event of a shortfall in revenue from the PID tax revenues projected in connection with, and at the time of, PID formation; or

c. Establish, to the county's satisfaction, other protection for homeowners or other end-users of the property located in the PID against excessive tax rates in the event that PID indebtedness exceeds PID tax revenues available to pay debt service in any particular year.

The county shall exercise its foreclosure rights associated with the nonpayment of property taxes by owners of property located within the PID and reimburse the applicant, upon the applicant's written request, for any payments made by the applicant to cover shortfalls in revenue necessary to pay debt service resulting from the nonpayment of property taxes by such owners.

(d) *Special levy bonds.*

(1) Special levy bonds shall be secured by a first lien (co-equal to the lien for general taxes and prior special assessments) on the property benefited in the manner contemplated by NMSA 1978, § 5-11-20(G).

(2) Applicants for special levy bonds shall describe in each project feasibility report, the following:

a. The current direct and overlapping tax assessment burdens and special levy on real property to comprise the PID and the full cash value and assessed valuation of that property as shown on the most recent assessment roll.

b. The projected amount and timing of PID special levy bonds to be issued.

c. The projected market absorption of development within the PID.

d. The special levy burden to be placed on the prospective assessed parcels and the anticipated methodology of assessment.

e. An estimate of the applicant's construction cost associated with the public improvements in excess of the estimated PID funded costs of the project.

f. The necessity of the applicant and the PID entering into a contribution agreement, which may require a letter of credit or other third-party guarantee by the applicant.

(3) The PID shall exercise its foreclosure rights associated with the nonpayment of special assessments by owners of property located within the PID and reimburse the applicant, upon the applicant's written request, for any payments made by the applicant to cover shortfalls in revenue necessary to pay debt service resulting from the nonpayment of special levies and special assessments by such owners.

(e) *Revenue bonds.*

(1) Revenue bonds shall be payable from a PID revenue source.

(2) An applicant for revenue bonds shall describe in each project feasibility report the following:

a. The current fee structure for comparable services or otherwise incurred by persons who would be responsible for paying the proposed rates, fees, and charges.

b. The revenue source from which bonds shall be payable. The county reserves the right to require the applicant to produce such independently prepared feasibility studies or reports as it deems necessary to confirm the amount and availability of revenues.

c. The projected market absorption of development within the PID.

d. The projected amount and timing of PID revenue bonds to be issued.

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e. The financial impact of the proposed rates, fees and charges on prospective residents or other users of such rates, fees and charges.

f. An estimate of the applicant's construction cost associated with the public improvements in excess of the estimated PID funded costs of the project.

g. The necessity of the applicant and the PID entering into a contribution agreement, which may require a letter of credit or other third-party guarantee by the applicant.

(f) *Suitability.* The county, in its sole discretion, may require that the PID only have the power to sell the proposed bonds to suitable investors. If the county chooses to impose limitations on the PID's power to sell the proposed bonds to suitable investors and the proposed bond issue is not rated (either on its own merits or by the use of appropriate credit enhancement) investment grade by Standard & Poor's Corporation, Moody's Investors Services, Inc., Fitch Investors Services, Inc., or any other nationally recognized bond-rating agency service, then the county may require that the bonds must have minimum denominations of $100,000.00 and be available for purchase and restricted with respect to resale to "qualified institutional buyers" (as such term is defined in Rule 144A of the Securities and Exchange Commission) or to "accredited investors" (as such term is defined in rule 501 of Regulation D of the Rules Governing the Limited Offering and Sale Securities without Registration under the Securities Act of 1933). The county may choose to have investor suitability achieved through the rating requirements set forth in the preceding sentence or the establishment of large minimum denominations (e.g., not less than $100,000.00) and, if the county determines it is appropriate, covenants limiting secondary market sales of PID bonds through registered broker-dealers. Notwithstanding the restrictions pertaining to public sales and private placements of bonds which the county may impose pursuant to this section, the restrictions may be modified, increased or relaxed if other financing structures or features are presented which, in the sole discretion of the board of county commissioners, provide other means to address investor suitability concerns. The minimum denomination requirements set forth above for PID bonds which are initially issued without rating shall not continue to apply if the PID subsequently obtains a rating in one of the three highest rating categories as provided in this section.

(g) *Bond counsel.* The county's bond counsel shall act as bond counsel in connection with the issuance of any PID bonds and shall be compensated by the applicant or from the proceeds of any bonds issued by the PID or both. From time to time the county may request from bond counsel such opinions as it deems necessary in connection with the formation and activities of the PID. The applicant shall retain and compensate its own counsel to represent the applicant with regard to the formation of the PID and the financing of any projects.

(Ord. No. 07-06-21.12A, § 5, 6-21-2007)

Sec. 30-24. - Miscellaneous provisions.

(a) *Additional requirements.* The county, in its discretion, may condition approval of PID formation on additional financing requirements, including, without limitation, the deposit of cash or a letter of credit (or similar credit facility) as security for completion of a portion of the infrastructure development as specified in the PID development agreement. If agreed to by the county or PID board, as applicable, in the discretion of the county or PID board, infrastructure and community improvements constructed or acquired by the applicant prior to, contemporaneously with or subsequent to the formation of the PID may be included in calculating the applicant's compliance with this section 30-23; provided that no improvements which have not already been constructed or acquired shall be included in that calculation unless the completion of the improvements is guaranteed or secured by an appropriate completion bond, cash deposit or other security acceptable to the county or PID board, as applicable.

(b) *Debt service reserve funds.* If allowed by law (including any applicable federal laws relating to the tax free status of bonds) and required by the county, all bond issues shall include a debt service reserve fund in an amount acceptable to the county and the PID board.

(c) *Indemnity.*

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(1) The county may require the applicant (or such other third party acceptable to the county and the PID) to indemnify the county and the PID and their agents and employees and shall hold the county and the PID and their agents, officers and employees harmless for, from and against any and all liabilities, claims, costs and expenses, including attorneys' fees, incurred in any challenge or proceeding relevant to the formation, operation, administration of the PID, the offer and sale of PID bonds, and the levying by the PID of any tax, assessment, special levy or charge.

(2) The applicant shall not be required to indemnify the county, the PID or their agents, officers or employees against any liability or claim relating to the continuing operation or maintenance of infrastructure after it is dedicated to and accepted by either the county or the PID. To the extent not prohibited by applicable law, the applicant's indemnity obligations shall not extend to claims arising from the negligence or wrongful conduct of the county, the PID or their respective agents, officers or employees or to claims arising from circumstances beyond the control of the applicant.

(d) *Environmental site assessments.* Unless otherwise provided to the county pursuant to other requirements prior to PID financing and acquisition by the PID or county, the PID and county shall require an independent Phase I environmental report or assessment of any real property which shall be dedicated to or otherwise owned, leased or operated by the county or the PID and a proposed form of indemnity agreement with respect to all environmental liability.

(e) *Refinancing and refunding bonds.* Refinancing and refunding of bonds issued on behalf of a PID shall be considered using the same criteria set forth in this article and in particular section 30-23. Refinancing and refunding shall be expected to either:

(1) Generate interest rate or net present value savings;

(2) Restructure payment of principal;

(3) Reimburse the applicant for actual costs expended for public improvements contemplated to be part of the proposed project; or

(4) Eliminate burdensome covenants.

(f) *Cost of change.* Applicants shall be responsible for all additional costs and expenses incurred in any special levy or property tax modifications resulting from changes to the development not anticipated in the application.

(g) *Discretion and waiver.* Based upon the recommendations of PID review staff and/or financing and legal consultants retained by the county, the board of county commissioners may approve PID applications which do not meet the foregoing criteria, if the board of county commissioners, in its discretion, determines that the particular features of the proposed PID, the likelihood that the PID's projects and purposes will be successfully completed and mechanisms protecting against default on bonds, warrant that the foregoing criteria need not be applied. In making that determination, the board of county commissioners may consider an opinion of an underwriter with a reputation satisfactory to the board of county commissioners that the particular features of the PID, the proposed projects and the bonds proposed to be issued can be successfully marketed and that the plan of finance is feasible.

(h) *Purchaser disclosure; marketing materials.* Each purchaser of real property located in the PID shall execute an acknowledgment of the PID disclosure form. The applicant shall also supply the county with a copy of the receipt. Applicants are required to describe in their promotional material the financial and other relative impacts on the developments being induced in a PID. Copies of the disclosure form must be placed on file with the county.

(i) *Amendment.* All amendments to the ordinance from which this article is derived shall have a prospective effect only and shall not in any way effect or otherwise modify the approval of a preexisting PID.

(Ord. No. 07-06-21.12A, § 6, 6-21-2007)

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FOOTNOTE(S):

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State Law reference— Public Improvement District Act, NMSA 1978, § 5-11-1 et seq. (Back)

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Chapter 31 - RESERVED

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Chapter 32 - STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTIES [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - COUNTY ROADS

ARTICLE III. - ADDRESSES, ROAD NAMES AND SIGNS

FOOTNOTE(S):

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State Law reference— County board may authorize construction and repair of county buildings, NMSA 1978, § 4-38-16; board may lay out and alter roads, NMSA 1978, § 4-38-24; board may order construction of bridges, NMSA 1978, § 4-28-25; board may appoint road superintendent, NMSA 1978, § 67-4-3; public rights-of-way, NMSA 1978, § 67-5-2. (Back)

ARTICLE I. - IN GENERAL

Secs. 32-1—32-18. - Reserved.

Secs. 32-1—32-18. - Reserved.

ARTICLE II. - COUNTY ROADS

Sec. 32-19. - Statement of purpose.

Sec. 32-20. - Definitions.

Sec. 32-21. - Penalty.

Sec. 32-22. - Standard specifications for road construction.

Sec. 32-23. - Dedication and acceptance of private roads.

Sec. 32-24. - Excavation permit application.

Sec. 32-25. - Excavation and cuts.

Sec. 32-26. - Restoration of road cuts.

Sec. 32-27. - Liability insurance or self-insurance and bonding.

Sec. 32-28. - Location and relocation of facilities.

Sec. 32-29. - Fees.

Sec. 32-30. - Road cut warranty.

Sec. 32-31. - Routing of traffic; traffic control.

Sec. 32-32. - Noise, debris and working hours.

Sec. 32-33. - Preservation of survey monuments.

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Sec. 32-34. - Noncompliance by permittee.

Sec. 32-35. - Permit denial or revocation.

Sec. 32-36. - Variance procedures.

Secs. 32-37—32-60. - Reserved.

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Sec. 32-19. - Statement of purpose.

The purpose of this article is to establish and define responsibilities and standards for road dedication to the county and acceptance of roads by the county for maintenance and the use of public property and rights-of-way regarding excavations and restorations thereof.

(Ord. No. 7-14-11.7A, § 2, 7-14-2011)

Sec. 32-20. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person required by this article to apply for a permit to make a road cut.

Bore drilling means that the applicant is boring underneath the existing road and will not be affecting either the subbase on said road or the road surface on said road. Boring and receiving pits should be identified work in the application, complete with dimensions and areas of ground disturbance.

County facilities project means any road cut undertaken as a part of a project initiated by the county and includes related action taken by the utility company to further the county facilities project.

Easement means the land owned by the county or utility company which parallels the existing roadway, thus allowing limited access for utility implementation by a person/utility company.

Emergency means any situation or condition existing in which there is an interruption or disruption of gas, electric, water, or telecommunications service to one or more customers being served by a utility company, or any situation or condition in which there is a danger of serious bodily injury, serious property damage, or prolonged disruption of service.

Excavation means the act of making a hole, trench, or ditch which penetrates through or under the surface in a public right-of-way or other public property, resulting in the removal of dirt, asphalt or other material.

Facilities means and includes, but is not limited to, plants, works, systems, improvements and equipment of the utility company such as pipes, electric substances, mains, conduits, transformers, wires, cables, poles, underground links and meters.

Joint trenching means where one or more utility companies have joined to install facilities in a common trench.

Longitudinal means a cut that is placed lengthwise in its dimension.

Permit means the written form provided by the county in which a person describes the road cut which will be performed on public property and in which are contained any special conditions required of the person by the county in the execution of the work.

Permittee means a person that has received a road cut permit from the county. This person/entity will be held responsible for all work described in the application and permit requirements.

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

Public facility means any designed, engineered or constructed road structures or engineered drainage facilities owned or maintained by the county located on public rights-of-way.

Public rights-of-way or *public property* means those properties or sites within the county for which the county possesses a real property estate or interest, such as fee simple title, prescriptive easement or dedicated easement, and includes easements, rights-of-way, highways or roads, paved or unpaved, curbs, gutters, sidewalks, or other paved, unpaved, unsurfaced or concrete property which the county owns or maintains.

Public works director means the person employed by the county who is designated by the board of county commissioners to hold this position and/or his designee.

Reclamation means returning disturbed soils and vegetation back to the original state prior to disturbance.

Road means the asphalted/graveled area and the utilization of county right-of-way.

Road cut means:

(1) The act of cutting a hole, trench, ditch or tunnel in, on, under, or through the surface of a public facility; or

(2) The act of drilling, boring or tunneling under or jacking up the surface of a public right-of-way.

Road use means any activity in or adjacent to the roadway (including easement) that affects traffic and pedestrian flow.

Traverse means a cut that lies across the road.

Utility company means any person, entity, or corporation which provides water, sewer, electric, gas, telephone, or cable television.

(Ord. No. 7-14-11.7A, § 4, 7-14-2011)

Sec. 32-21. - Penalty.

Any person violating the provisions of this article shall, upon conviction, be punished by a fine of up to $300.00 per day per site for each day of violation.

(Ord. No. 7-14-11.7A, § 18, 7-14-2011)

Sec. 32-22. - Standard specifications for road construction.

All roads will be constructed as specified in this section or in accordance with chapter 34, subdivisions. Public roadways within an approved subdivision must be dedicated to the county following the procedures outlined in either section 34-74(d) or 34-214(d). If the board of county commissioners accepts such roadways for dedication, such acceptance must be clearly indicated on the recorded plat of the subdivision. Upon full conformity with the road construction standards within this article as well as sections 34-146 and 34-194, the roads may be accepted for maintenance by the county.

(1) *Right-of-way.* Unless otherwise specified, an easement or right-of-way, in form acceptable to the county, must be provided. The right-of-way must be a minimum of 50 feet in width (25 feet each side of centerline). Depending on the site conditions and use of the road, the county may, at its discretion, require more or less right-of-way than specified herein.

(2) *Trees and brush.* For safety purposes, all trees, brush and any landscaping not approved by public works shall be removed from the right-of-way.

(3) *Utilities.*

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a. All utilities must be 36 inches below the lowest point of the road cross section, except high-pressure gas lines, which must be 48 inches below the lowest point of the road cross section. High pressure lines shall be clearly marked with appropriate warning signs where the line intersects the right-of-way. All utility facilities parallel to a county road and associated manholes, junction boxes, meters or other above grade apparatus shall be installed within five feet of the right-of-way line. Minor variations will be considered on an individual basis. In no event shall the installation be within such proximity to the traveled portion of the roadway as to interfere with off-road parking or road maintenance. Above-grade apparatus must be clearly marked with a delineated warning marker acceptable to public works. All at-grade valve or manholes located in the road's driving surface or shoulder must be protected with an at-grade, two-foot by two-foot by six-inch concrete collar.

b. Irrigation systems and ditch crossings within the right-of-way must be bridged or piped and cased under the entire right-of-way. Piped road crossings shall be installed a minimum of 24 inches below the lowest point of the road cross section or with sufficient cover to withstand 20-ton truck traffic. Open ditches carrying irrigation waters shall be placed outside of the right-of-way. Borrow ditches shall not be used for irrigation or tail waters.

(4) *Drainage.* Positive site drainage away from the roadway will be provided utilizing historic or established drainage channels or storm drains. Unless otherwise provided for or approved, maintenance of drainage easements outside the right-of-way that crosses private property will not be provided by the county. All drainage structures or drainage plans will be approved by the county engineer.

(5) *Grades.* Roads grades shall not exceed eight percent.

(6) *Intersections.* Roads shall be laid out as to intersect as nearly as possible at right angles. No road shall intersect any other road at an angle of less than 70 degrees.

(7) *Road construction.* Before beginning preparation of the subgrade, all sod and other vegetation shall be removed from the road bed. Construction of the road will be in accordance to plans approved by the county engineer but the minimum required will be 12 inches of subgrade, six inches of base course and three inches of asphalt surface. The driving surface shall be 24 feet wide with five feet shoulders on each side. Bar ditches will be constructed as approved by the county engineer.

(8) *Compliance with design and specifications and testing.* It shall be the responsibility of the developer or applicant to retain the services of a state-registered professional licensed engineer qualified and equipped to perform the overall construction inspection, materials testing and compaction tests required. The developer, applicant or engineer must notify the public works director or representative of the name of the engineer or engineering company prior to construction. The developer, applicant must contact the public works director or representative at the start of each phase of road construction, i.e., clearing and grubbing, compaction, and driving surface. Upon completion of construction of the roads, a detailed report, in a format approved by public works, shall be submitted to the public works director or representative. A state-registered professional licensed engineer shall certify that sound construction practices were used, that all necessary testing was performed and that all specifications are in compliance.

(9) *Requests for acceptance of dedicated roads for county maintenance.* After the one-year warranty period, the developer or owner will certify that there were no issues with the road construction and drainage structures through an application process. Public works will present the request to the board of county commissioners for their consideration and possible approval for maintenance. Individual roads within the subdivision may be considered for county maintenance if all requirements are met. However, this phased-in approach will require a separate report and application for each road.

(Ord. No. 7-14-11.7A, § 5, 7-14-2011)

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Sec. 32-23. - Dedication and acceptance of private roads.

(a) For roads that are not being dedicated as a part of a subdivision process, an application for road dedication must be submitted, accompanied by:

(1) A petition regarding intent to dedicate the road to the county, signed by all property owners that abut the private road;

(2) Documentation that the signers of the petition are the legal owners of record for the properties;

(3) A legal description with a plat drawing that shows the road to be dedicated as public property with the abutting properties, property owners' signature line and name of the road.

(b) Public works staff will review the request. An inspection will be done to determine if the road will require improvements to meet specified road standards as per section 32-22. Depending on the scope of improvements, construction plans may be necessary. Written notification and comments will be submitted to the owners on the requirements that need to be met. Upon completion of all requirements, a detailed report, in a format approved by public works, signed and stamped by a state-registered professional licensed engineer, shall be submitted to the public works director or representative. The report shall certify that sound construction practices were used and that all requirements have been met. Public works upon staff receipt, review and final approval of this report can submit the road for board of county commission approval for acceptance of dedication and maintenance.

(Ord. No. 7-14-11.7A, § 6, 7-14-2011)

Sec. 32-24. - Excavation permit application.

(a) Every person desiring to make a road cut or utilize county right-of-way is required to obtain a permit, and must be licensed and bonded, or must be a utility company. The person shall make written application on forms provided and approved by the public works director prior to the performance of any road cut work or activity on public property.

(b) No person shall make any road cut on public property until the person or designated agent obtains an appropriate permit from the county, except in an emergency. In the event of an emergency, the person may proceed with such activity immediately. An application must be filed within two business days. The application must state the description of the emergency and a summary of the repairs. The applicant must comply with any reasonable repair directions set forth by the county. The emergency work must be conducted in a manner that will not adversely affect the road condition or cause undue hardship to the residents of said location of work.

(c) Submittals must include a site map of the proposed road cut that indicates exact path of cut.

(d) Submittal must include pre work photos. Post work photos must be submitted in order to close out work permit. A permit will be considered "out of compliance" if post photos are not submitted.

(e) Evidence must be presented that insurance requirements have been met in accordance with section 32-27, except for county agencies.

(f) Contractors working for area utility companies must be on an authorized list provided by such utility company or evidence must be presented that any tie-in or extension of utilities is authorized. This includes, but is not limited to, sewer, gas, water, electric or communications. The authorization must be from the applicable utility company, provider or utility association that services will be provided to the extension or tie-in.

(g) A utility company may file its application for a road cut permit and all supporting information through the use of a telecopy machine located in the county public works department, in accordance with procedures established by the public works director. An approved permit may be sent to the applicant in accordance with similar procedures. The public works director, in his discretion, may allow a person to be billed for fees due and payable under the terms of this article on a monthly

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basis, provided the account is not more than 60 days delinquent in payments due under this article. No further permits will be issued if payments are more than 60 days delinquent.

(h) When a utility company applies for a permit that borders or is within tribal lands, the site will have to be reviewed for county jurisdiction on a case by case basis.

(Ord. No. 7-14-11.7A, § 7, 7-14-2011)

Sec. 32-25. - Excavation and cuts.

(a) *Depth of cuts.* Installation of utility lines shall be a minimum of 36 inches. Applicant must submit information on all existing culverts, bridges, drainage areas that may be affected with the road cut.

(b) *Clearance of vital structures.* Work under these provisions must be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, bridges, traffic control devices, and all other vital structures or equipment.

(c) *Length, number of cuts; use of R.O.W.* Upon issuance of the road cut permit, the county authorizes the cutting or excavation of a road or right-of-way by approved methods as listed in the New Mexico Standard Specifications for Public Works Construction and only for the single cut specified on the permit. When the project involves the excavation of the road or right-of-way in manner that runs roughly parallel to the roadway, the permit shall authorize up to 600 lineal feet of excavation on an emergency basis.

(d) *Maintenance of traffic and pedestrian flow.* The permittee must maintain safe and adequate passage of vehicle and pedestrian traffic on all public property on which the permittee is conducting its activities under its permit. When a public facility has been closed or detoured because of the permittee's work, the public works director must be notified by the permittee prior to removal of barricades and other traffic control devices.

(e) *Permittee's obligation to protect property.* The permittee must, at his own expense, support and protect all utilities which may be in any way affected by the road cut and other permitted work, and does everything necessary to support, sustain, and protect them under, over, along or across said work. Before commencing a road cut, the permittee shall determine the location of all utilities by notifying the New Mexico One Call System at 1-800-321-2537 in or near the area of the proposed cut. One call only notifies the telephone and gas companies, the applicant will need to notify the electric, the cable company, and the respective entity for water and sewer lines on their own. In the event said utilities are damaged, including damage to pipe coating or other encasement devices, the permittee must immediately notify the utility company of the damage. The permittee shall pay the other utility company for all costs associated with the repair if the permittee was negligent and the facilities were properly marked and located. The permittee must also protect the road cut from surface water flows by appropriate diversions or ponding devices. The permittee must repair asphalt or other road surfaces and other public facilities and public property to reasonable construction and engineering standards to approximate the condition that existed before the work.

(f) *Protection of adjoining property.* The permittee must at all times and at his own expense preserve and protect from injury any property adjoining the property on which the road cut work is being performed by taking suitable measures for that purpose. Where in the protection of such property it is necessary to enter upon private property for the purposes of taking appropriate protection measures, the permittee must, unless otherwise provided by law, obtain appropriate permission from the owner of such private property to enter thereupon. The permittee must at his own expense shore up and protect all structures, facilities, walls, fences or other property that may be affected or damaged during the progress of the road cut work and be responsible for all damages on other property resulting from his failure to properly protect and carry out such work.

(g) *Care of excavated material.* All materials excavated and piled adjacent to the road cut or in any public place by the permittee must be piled and maintained so as to not endanger the public and those working in the excavation, and so as to cause as little inconvenience as possible to those persons using the public place and adjoining property. All material excavated must be laid

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completely along the side of the cut and kept trimmed so as to cause as little inconvenience as is reasonably possible to vehicle and pedestrian traffic. In order to expedite flow of traffic and to keep dirt and dust from spreading or flying, the permittee shall use guards or other methods and/or shall water the excavated material. Traffic markings removed as a part of the road cut shall be replaced by the permittee with materials similar to those originally displaced, in a place and in a manner satisfactory to the county.

(h) *Cleanup.* Each permittee must thoroughly clean up from the public place all rubbish, excess earth, rock and other debris resulting from road cut work. All cleanup operations at the location of such cuts are to be accomplished at the expense of the permittee. During the progress of work or immediately after completion of such work, the permittee shall clean up and remove all refuse, dirt and unused materials of any kind resulting from said work. Upon failure to do so, the county may cause to have such work done, and the permittee shall pay for such at reasonable cost.

(i) *Protection of watercourse.* The permittee must maintain all gutters, easement crossings and related drainage structures free-flowing and unobstructed for the full depth and width of the watercourse, or provide adequate substitutes for any such watercourse that are blocked by the road cut. When crossing a watercourse all utilities must be embedded 48 inches at a minimum. The county may require the utility to be buried at a greater depth, depending on the type of utility and the condition of the watercourse. All state and federal permits must be obtained prior to the issuance of the road cut permit and must accompany application at the time of submittal, failure to do so will delay permit processing.

(j) *Cultural resource.* The permittee must obtain clearance from the New Mexico State Historic Preservation Office (NMSHPO) for any work believed to be located on or near an historic site. Requirements from NMSHPO are the sole responsibility of the permittee. Clearance of said work at these sites must accompany the application at the time of submittal; failure to do so will delay permit processing.

(Ord. No. 7-14-11.7A, § 8, 7-14-2011)

Sec. 32-26. - Restoration of road cuts.

(a) *Compaction.* Any person holding a road cut permit shall undertake to restore each road cut, in accordance with the reasonable compaction and restoration standards required by the county. This shall include both the backfilling of the cut and the restoration of the surface. All backfill must be compacted to 95 percent proctor under the road surface, and 90 percent proctor outside the road surface. Certified density test results must be submitted to the public works director within five working days of completion of said work. For any person who does not submit compaction test results to the county in a form and with results acceptable to the county, such person shall not be issued any further permits under this article until the person complies with this article, and the county may take such other actions as it deems necessary to ensure compliance with this section. The public works director may waive the compaction tests for plow trenching only, provided the utility company demonstrates a method of operation of compaction acceptable to the public works director.

(b) *Resurfacing.* The permittee shall restore the surface of the cut in accordance with reasonable compaction and restoration standards. In those instances when a permittee cannot resurface a public place with concrete or asphalt because the air temperature or moisture content is below the minimum standards contained in the compaction and restoration standards, or the weather conditions are such that the permittee is unable to resurface the public place within a reasonable time after the county's acceptance of any density tests, the permittee shall immediately check with the public works director concerning how and when the public facility shall be resurfaced. The county may require that the permittee cold patch the road cut on a temporary basis.

(c) *Cost.* The cost for restoration of the road surface shall be borne by the permittee.

(d) *County performance.* If a permittee makes a road cut that is not resurfaced within a reasonable time, and the county has not granted an extension of time, the county may, upon giving notice to the

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permittee, resurface the road cut and bill the permittee for the reasonable cost. Unsatisfactory work will result in additional fees of up to $300.00 per incident.

(e) *Safety.* It shall be the responsibility of the permittee restoring the public place to keep the road cut or surface opening safe for pedestrian and vehicular traffic until the pavement surface or opening has been restored.

(f) *Extension of time.* Approval of this permit is valid for a maximum of 28 days. Any time periods may be extended by the county due to weather conditions or other circumstances beyond the control of the permittee, with written permission of the public works director or his designee. Extension is not considered approved until permittee has received a written notice signed by the public works director or his designee.

(g) *State standards.* The permittee shall comply at all times with the appropriate construction standards set forth in state statutes.

(h) *Reclamation.* The permittee shall restore as practicably as possible, the affected area to the condition it was immediately prior to excavation or development. If the area is fully vegetated, it must be returned to a fully vegetated state. This includes, but is not limited to, depth of base course or other materials used on road surfaces. The county will provide standards for materials. Materials may be obtained from an approved supplier or vendor. The county may require additional seeding and restoration work at sites where soils are typified as "highly erosive soils" through the Natural Resources Conservation Service soils guidelines. The applicant may be required to submit a restoration plan and time frame of activities involved for the reclamation depending on the scope of the work.

(Ord. No. 7-14-11.7A, § 9, 7-14-2011)

Sec. 32-27. - Liability insurance or self-insurance and bonding.

(a) *Certificate of insurance.* No person other than a utility company shall make a road cut or enter a substructure opening or perform road cut work until filing with the county a certificate of insurance establishing that such person is adequately insured according to the Tort Claims Act, NMSA 1978, § 41-4-19, as amended, against bodily injury or personal injury to any person, and against liability for damages, other than the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom. Each insurance certificate shall provide that the county be given at least 30 calendar days notice of cancellation in writing by the insurance company.

(b) *Form and type.* A utility company shall at all times maintain insurance or may self insure against all risks and perils set forth above for the reasonable limits of liability set by NMSA 1978, § 41-4-19 and the county, in a form and type acceptable to the county, which approval will not be unreasonably upheld.

(c) *Performance bonding.* A performance bond in the amount of $15,000.00 must be kept on file at the public works department along with the contractor's license and insurance documents.

(d) *Nonapplicability.* This section shall not apply to franchised utility companies.

(Ord. No. 7-14-11.7A, § 10, 7-14-2011)

Sec. 32-28. - Location and relocation of facilities.

The county expressly reserves the right to change the grade, install, relocate, or widen the public rights-of-way within the county and subject to all regulatory approvals. The utility company shall relocate, at its own expense, its facilities and appurtenances in order to accommodate the paving installation, relocation, widening, or changing of the grade or location of any such public right-of-way, including if necessary, relocation facilities to a sufficient distance within the right-of-way to permit a reasonable work area for machinery and individuals engaged in such work, or to protect the health, safety or welfare of the public.

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(Ord. No. 7-14-11.7A, § 11, 7-14-2011)

Sec. 32-29. - Fees.

Fees shall be established by and adopted through resolution by the board of county commissioners. The county is not required to obtain a permit for any of its projects.

(Ord. No. 7-14-11.7A, § 12, 7-14-2011)

Sec. 32-30. - Road cut warranty.

Any person, including a utility company making a road cut is required to correct defective materials and workmanship performed under each road cut permit for a period of one year from the date the work performed under such permit is completed.

(Ord. No. 7-14-11.7A, § 13, 7-14-2011)

Sec. 32-31. - Routing of traffic; traffic control.

(a) *Traffic conditions.* When road cut work is being performed, the person making the road cut must take appropriate measures to maintain traffic conditions as near normal as practicable at all times so as to cause as little inconvenience as possible to the occupants of the abutting properties and to the public. A traffic control plan shall be professionally produced (generic or handdrawn plans will not be accepted) using MUTCD standard and submitted with the permit. No permits will be issued without the submission of a traffic control plan unless waived by the county. Waiver is not considered valid unless it is signed by the public works director or his designee.

(b) *Notice.* The county may require the permittee to notify various public agencies, emergency services, and the public of proposed work prior to issuance of a permit prior to commencement of the proposed work, depending on the scope of work.

(c) *Warning signs.* Warning signs must be placed by the permittee near each road cut or substructure opening being entered so as to give adequate warning to vehicular and pedestrian traffic both night and day, and cones or other approved devices must be placed to channel traffic. The traffic controls, including, but not limited to, the number, type, size and location of the signs shall be done in accordance with the Manual on Uniform Traffic Control Devices, part VI, and reasonable traffic standards as directed by the public works director or his designee.

(d) *Identification signs.* The county may require the permittee to place a visible sign at each end of the construction area which is visible from a distance and sets forth the name of the person making the street cut, or in the case of a utility company, the name of the company together with a business telephone number to handle calls from the motoring public.

(Ord. No. 7-14-11.7A, § 14, 7-14-2011)

Sec. 32-32. - Noise, debris and working hours.

Each permittee must conduct and carry out road cut work in such manner as to avoid unnecessary inconvenience and annoyance to the public and occupants of neighborhood property and in compliance with the county noise standards. Emergency conditions may cause exception to this section.

(Ord. No. 7-14-11.7A, § 15, 7-14-2011)

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Sec. 32-33. - Preservation of survey monuments.

Any survey monument set for the purpose of locating or preserving the lines of the road, property, subdivision, or a permanent survey, or a permanent survey bench mark within the county may not be removed or disturbed without first obtaining permission in writing from the county. Permission to remove or disturb such monuments, reference point or benchmarks will be granted only upon condition that the person applying for such permission pay all expenses incident to the proper replacement of the monument.

(Ord. No. 7-14-11.7A, § 16, 7-14-2011)

Sec. 32-34. - Noncompliance by permittee.

In the event a permittee fails to comply with the requirements of this article, the public works director may issue written notice of noncompliance and stop all work until the permittee is in compliance. Written or verbal notice will be issued and a fee of $300.00 may be accessed for noncompliance of this article. The public works director is authorized and empowered to suspend, cancel or withdraw any license or permit issued by the county to the permittee, within ten business days of the public works director's written decision. The permittee may appeal the director's decision to the board of county commissioners by filing written notice with the county manager. Work is required to cease during the time of appeal and will not be considered in compliance until the board has made its decision.

(Ord. No. 7-14-11.7A, § 17, 7-14-2011)

Sec. 32-35. - Permit denial or revocation.

The county reserves the right to issue or revoke any permit upon its own discretion for any reason deemed reasonable by the public works director. The county may also deny issuance of a permit to any applicant if there are delinquent compaction test results from previously performed road cuts exceeding 30 days or greater.

(Ord. No. 7-14-11.7A, § 19, 7-14-2011)

Sec. 32-36. - Variance procedures.

(a) Where it is shown that strict compliance with the requirements of this article would result in extraordinary hardship to the applicant and/or it can be demonstrated that the applicant is a nonprofit organization and is acting in the best interest of the public, an applicant may file a written request for a variance.

(b) A variance in no way absolves the parties from repairing the road to its original state of condition.

(c) Conditions of variances. In granting variances, the board of county commission may impose conditions regarding burial of utility lines, reclamation, re-asphalting, resurfacing and compaction requirements as will ensure that the use of the property to which the variance applies will be as compatible as practicable with and not adversely affect properties within the work area for the requested variance.

(d) An application for a variance shall be submitted to the director of public works in writing by the applicant indicating the subject of the variance request, or by the applicant's agent, by filing a completed copy of the application, submittals which support the request and a nonrefundable filing fee of $75.00 with the public works department.

(e) Hearing variance requests. The county commissioners shall decide all variance requests within 60 days following the request. Decisions on requests for variances shall be approved by a majority vote of the commissioners.

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(f) Required findings. Before recommending approval of a variance to the board of commissioners, the director and his designee shall make findings of fact with the respect to the following:

(1) Granting of the variance shall not constitute a grant of special privilege inconsistent with the limitations on other road cuts in the area of notice.

(2) Granting of the variance shall not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the area of notice.

(3) Granting the variance upholds the spirit and intent of this article.

(g) Before recommending approval of a variance to the board of county commissioners, the director shall make conclusions of law with respect to the following:

(1) Strict or literal interpretation and enforcement of the specified performance standard or regulation would result in unnecessary physical hardship inconsistent with the purposes of this article.

(2) Exceptional or extraordinary circumstances or conditions are applicable to the site of the variance that does not apply generally to other road cuts in the vicinity.

(3) Strict or literal interpretation and enforcement of the specified performance standard or regulation would deprive the applicant of privileges enjoyed by the applicant or other citizens in the area of the proposed cut.

(Ord. No. 7-14-11.7A, § 20, 7-14-2011)

Secs. 32-37—32-60. - Reserved.

ARTICLE III. - ADDRESSES, ROAD NAMES AND SIGNS

Sec. 32-61. - Short title.

Sec. 32-62. - Conflicting provisions.

Sec. 32-63. - Purpose.

Sec. 32-64. - Definitions.

Sec. 32-65. - Penalties.

Sec. 32-66. - Authority.

Sec. 32-67. - Application of article.

Sec. 32-68. - Addressing.

Sec. 32-69. - Road names.

Sec. 32-70. - Application requirements.

Sec. 32-71. - Road signs.

Sec. 32-72. - Prohibitions.

Sec. 32-73. - Nonconforming names or addresses.

Sec. 32-74. - Variance.

Sec. 32-75. - Appeals.

Sec. 32-76. - Fee schedule.

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Sec. 32-61. - Short title.

This article may be cited as the "Addressing Ordinance."

(Ord. No. 02-03-21.11C, § 1, 3-21-2002)

Sec. 32-62. - Conflicting provisions.

Where there exists a conflict between any limitation or requirement in the article and any applicable limitation or requirement contained elsewhere in this article or in any other ordinance, regulation, or law, the more restrictive limitation or requirement shall prevail.

(Ord. No. 02-03-21.11C, § 3, 3-21-2002)

Sec. 32-63. - Purpose.

The purpose of this article is to provide for uniformity in street names and addresses, and to facilitate emergency vehicle response by establishing a uniform system for street names and address numbers, street name standards, display standards, and official address maps, and by eliminating nonconforming street names and addresses in the county.

(Ord. No. 02-03-21.11C, § 4, 3-21-2002)

Sec. 32-64. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access means a way or means by which a vehicle enters a lot or parcel or a person enters a building.

Address system. The county uses the grid addressing system and the frontage interval system (the mile marker system) as defined in the NENA addressing systems guide for the benefit of the county.

Baseline means a north-south or east-west line used as a zero starting point for address numbers.

Building means and includes all residential and commercial structures designed for human occupancy or use.

Commercial means a development not intended for human residence.

Commission means the board of county commissioners.

County addresser means the authorized representative, appointed by the county and responsible for the administration of the standards in this article.

Cul-de-sac means a street ending in a dead-end, not being an extension of another street, having no other street intersections, and not having the capability of connecting or intersecting with another street in the future.

Directional prefix means a prefix assigned to a street based on the general direction of travel from an appropriate baseline, North (N.), South (S.), East (E.), and West (W.). The determination may be 45 degrees either side of the true direction.

Emergency services means fire, law enforcement, ambulance services, E-911, etc.

Entrance signage means address information located at access points.

Local/collector street means a street that serves as a connection between several local streets and one or more arterial streets and/or a street of relatively short length that provides direct access to a limited number of abutting properties.

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Mailing address means a complete delivery address that has all the elements necessary to allow an exact match with the current United States Postal Service ZIP+4 and city state files to obtain the finest level of ZIP+4 and delivery point codes for the delivery address; also, a standardized delivery address that is fully spelled out, abbreviated by using the postal service standard abbreviations or as shown in the current postal service ZIP+4 file.

Major arterial means any interstate, federal highway, state highway or county highway.

Mile marker means a system of mileage indicators displayed alongside county, state and federal highways that are set at intervals of one mile.

Number means part of an address based on numerical distance from an appropriate starting point.

Occupant identifier means a specific number delineating individual unit locations with a single address. This number shall be used following the address (e.g., 5015 Highway 44, Suite 1100).

Person means an individual, partnership, corporation, public utility, association, other legal entity, or their authorized agent.

Physical address means a permanent, unique address that clearly identifies where a property is physically located. The address number is assigned by the addresser or designee after physically inspecting the location of the property or by referencing the county maps and road indexes. It may include a number, a directional prefix, a primary street name, a suffix and an occupant identifier, when required. This address is not the same and may be different from the mailing address.

Point of origin means the intersection of the north-south and east-west roadways establishing zero at the intersection.

Primary access means the principal point of ingress-egress. It may be different than recorded legal access.

Public utility means and includes, but is not limited to, electric, water, sewer, natural gas, propane gas, telephone and cable television companies.

Residential means facilities intended for human dwelling.

Site plan means a map drawn to scale and including a north arrow showing property boundaries, building locations, dimensions of property, buildings and setback distances to property lines, primary access points for property and buildings, dimensional ties of tenant improvements to building shell, access from nearest named right-of-way for unsubdivided parcels.

Street means a public or private thoroughfare or easement with abutting properties reserved for vehicle travel and access.

Street name means the primary street name and suffix, but does not include the directional prefix (e.g., E. Broadway Boulevard).

Street sign means a sign that displays primary name, suffix, and a quadrant direction from a baseline.

Subdivision means a 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, as referenced in chapter 34, subdivisions.

Subdivision plat, preliminary, means a 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 base upon an accurate and detailed survey of the land.

Unincorporated means those areas in the county which are located outside any municipal limits or not held in trust or ownership by the federal government or the state.

(Ord. No. 02-03-21.11C, § 17, 3-21-2002)

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Sec. 32-65. - Penalties.

(a) Any person, partnership, association, corporation, public utility, private utility, or other legal entity purposefully who installs or causes to be installed any utility service, including, but not limited to, electricity, gas, water, sewer, telephone, or cable television service to any location required by this article to be assigned an address without first receiving a development permit and an address for that location shall be guilty of a misdemeanor punishable by a fine not to exceed $300.00 or by imprisonment for a term not to exceed 90 days, or both.

(b) Any person who purposefully fails to properly place and maintain assigned address numbers on property owned or occupied by that person as required by this article shall be guilty of a misdemeanor punishable by a fine not to exceed $50.00.

(c) Any person who intentionally installs a road sign or assigned address number in violation of this article or who intentionally removes, alters, defaces, changes, or conceals a road sign or assigned address number erected or installed pursuant to this article shall be guilty of a misdemeanor punishable by a fine not to exceed $300.00 or by imprisonment for a term not to exceed 90 days, or both.

(Ord. No. 02-03-21.11C, § 16, 3-21-2002)

Sec. 32-66. - Authority.

(a) The director of the planning and zoning department or authorized representative shall be designated as addresser and shall be responsible for the administration of these article standards. This article shall be administered such that the standards herein protect the health, safety, and welfare of county residents and support orderly development in accordance with the comprehensive plan and other adopted land use plans, appendix A and chapter 34 of this Code.

(b) These standards shall regulate all lots, parcels, buildings, occupant identifiers and streets within the unincorporated areas of the county and those incorporated areas and tribal lands included by intergovernmental agreement.

(c) Only the addresser may assign, approve or change, or delete an address.

(d) The addresser shall ensure that he receives the most up-to-date maps showing each assigned address for subdivided land and un-subdivided parcels from the GIS/mapping departments of the county.

(e) The addresser shall ensure that he is provided with a copy of the index of the master street address guide, also known as MSAG, from the local telephone company data base centers.

(Ord. No. 02-03-21.11C, § 5, 3-21-2002)

Sec. 32-67. - Application of article.

(a) Any person, firm, corporations, and other legal entities constructing new structures or locating or relocating mobile homes shall request an address or a change of address from the addresser and shall provide the information required by this article.

(b) No utility company operating in the county shall furnish utility service to any new structure, mobile or manufactured home; including a mobile/manufactured home that is moved from one location to another, until it has been issued a valid address and provided a utility authorization from the addresser. For the purposes of this section, the term "new structure" means a commercial building, house or apartment, newly constructed, being occupied by the applicant or other persons for the first time and that will require an installation visit to obtain service.

(c) The subscriber will be required to provide a utility authorization from the county to ensure that the proper address requirements have been met.

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(d) Approval by the addresser shall constitute the assignment of road names and/or numbers to the lots in the subdivision.

(Ord. No. 02-03-21.11C, § 6, 3-21-2002)

Sec. 32-68. - Addressing.

(a) A copy of the latest edition of the NENA (National Emergency Number Association) addressing systems is available for viewing at the addresser's office during regular business hours. The standards within this publication may be used as a guide by the addresser in making administrative decisions regarding this article.

(b) All properties shall be numbered in 52.8-foot intervals, regardless of whether or not a structure is at every interval. The system will produce approximately 100 addresses per mile. At the discretion of the addresser, the interval may be amended in order to accommodate a higher density of structures.

(c) From the street beginning point, odd numbers shall be assigned to structures on the right side of the road, and even numbers to the left side. This shall be applied in all sections of the county unless a community has been previously numbered in the opposite fashion.

(d) Subdivisions that are approved by the county are still required to be addressed, as determined by the addresser.

(e) Once the address has been assigned, it shall be placed in a manner that is highly visible from the primary access to the property, and made of a material which is highly reflective, or illuminated from above, so as to be seen clearly at night.

(f) Route identification. The route identifier hierarchy is:

(1) Interstate routes.

(2) U.S. routes.

(3) State routes.

(4) County roads.

(5) Municipal roads.

(6) Private roads/drives.

(g) Starting point. The addressing starting point for state highways shall be according to the existing markers. All roads that provide access to one or more buildings shall begin at the point where they branch from another road. If any road loops and both ends are accessed from the same road, the starting point shall be at the lower numbered end of the access road. The NENA addressing systems shall be used as a reference for the numbering technique of cul-de-sacs, trailer parks, apartments and duplexes, businesses and business parks, circular or diagonal streets.

(h) Easements. All public and private roads, easements and driveways longer than 50 feet which provide access to properties shall be named in accordance with the road naming theme to that area or as approved by the addresser. This applies whether there are one or more lots.

(i) Intergovernmental cooperation policy. The county shall rule on every new or changed name of a street within its jurisdiction. Where a street is or clearly will be both within and outside an incorporated area, the county shall confer with other affected governmental entities (to include tribal lands and reservations) and seek a mutually satisfactory name.

(Ord. No. 02-03-21.11C, § 7, 3-21-2002)

Sec. 32-69. - Road names.

The following provisions shall apply to naming and renaming roads:

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(1) *New road designations.*

a. New local street cul-de-sacs may be designated "court."

b. Roads whose beginning and ending points intersect on a common road shall be known as a "loop."

c. When the appropriate street designation according to this subsection is not clear, the addresser shall determine the designation.

d. Private streets may have a designation, provided the street is depicted on the zoning and assessment maps. The name shall not be in conflict with the name of an existing public or private street. Any driveway longer than 300 feet shall be designated as a street.

e. A petition, with a minimum of 51 percent of the affected property owners agreeing to three names, listed by preference for the addressers consideration.

f. Road names are not considered approved until written approval by the addresser is obtained.

(2) *Naming of new roads.*

a. The name of a new street should be the name of an existing, nearby street which is essentially in line with it, unless the addresser finds that such name continuation would clearly not be helpful to motorists searching for an address.

b. Where subsection (2)a of this section does not apply, the following are basic county policies on public and private street naming:

1. Alphabetic sequences of street names are desirable;

2. Groupings of names of similar subjects such as trees or animal names are desirable;

3. Names with double meanings are usually undesirable;

4. Names which are difficult to spell or pronounce are usually undesirable;

5. Names of over 17 letters and spaces are usually unacceptable; this limit does not apply to the street designation and quadrant;

6. Names already in use for streets in the county are unacceptable unless the existing street is essentially in line with the new street.

(3) *Renaming roads.* The county may change road names to eliminate duplication, avoid safety concerns, or protect the health and general welfare of county citizens. In addition, owners of property on the street in question may apply to the addressing office to change the name of a street segment which is within the county subject to the procedures set out in this article. This section shall apply to any replats of subdivisions if the roads are being changed. Criteria for name changes:

a. A road name shall be changed only if the addresser finds that there will be a public benefit which clearly outweighs the public confusion and cost which would be created by the name change.

b. Continuous principal or minor arterial roads should have the same name throughout the area. However, the benefit of this clarity must be weighed against the confusion of changing addresses which are in use.

c. When road names are proposed for change, every effort will be made to maintain historical road names.

d. A petition of 51 percent of affected property owners shall be provided with a list of three choices, listed by preference, for the addresser to consider.

e. The NENA addressing system guide should be used as a reference for all road names.

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(4) *Signatures on petition.* For the purpose of subsections (1)e and (3)d of this section to establish 51 percent of the affected land owners, one person per vacant lot, occupied building, or residence may sign the petition (i.e., one vacant lot, one vote; one occupied building, one vote; one residence, one vote). Once a road has been named, it may not be the subject of a petition for renaming for at least ten years, unless the petitioning land owners can establish a need to rename the road based on public health, safety, or welfare.

(Ord. No. 02-03-21.11C, § 8, 3-21-2002)

Sec. 32-70. - Application requirements.

(a) An application, provided by the addresser, shall be filled out and have the following information:

(1) Name of applicant;

(2) Location or roadway by description and/or map;

(3) Legal status, i.e., ownership of road, if known (attach map showing area);

(4) Existing road name, if known;

(5) Proposed road name;

(6) Reason for request;

(7) Attached petition from 51 percent of landowners supporting change.

(b) The addresser shall mail certified letters to the record owners of all lots abutting a street segment which is proposed for a name change, informing them of the nature of the proposed change and indicating how a person may file comments. At least 15 days shall be allowed for such comments before a decision is reached. The term "owner of record" means the owner shown in the records of the county assessor.

(c) The addresser shall make the decision as to local and collector streets in the following cases:

(1) An application or petition is signed by all owners of record of property abutting the street segment in question; or

(2) No person files a timely written objection to the name change.

(d) In cases involving principal or major arterial streets, the county planning and zoning commissioners shall rule on the request.

(e) Every person filing comments or receiving notification pursuant to the provisions of this section shall receive written notification of the decision.

(f) Appeal of the addresser's decision is to the county planning and zoning commission, then to the board of commissioners. Appeals are subject to the requirements set out herein.

(g) Criteria for name changes.

(1) A street name shall be changed only if the addresser finds that there will be a public benefit which clearly outweighs the public confusion and cost which would be created by the name change.

(2) Continuous principal or minor arterial streets should have the same name throughout the area. However, the benefit of this clarity must be weighed against the confusion of changing addresses which are in use.

(3) When road names are proposed for change, every effort will be made to maintain historical road names.

(Ord. No. 02-03-21.11C, § 9, 3-21-2002)

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Sec. 32-71. - Road signs.

(a) Physical address sign (building number). Each record owner must place an address sign upon his property. Address signs shall be large, a minimum 3.5 inches, preferred red background with white numbers and:

(1) Placed in a manner that is highly visible from the primary access to the property, and made of a material which is highly reflective, or illuminated from above, so as to be seen clearly at night.

(2) The post should be placed so that the face of the sign is on the near side of the right-of-way or driveway access to the residence so that the number can be readily visible from the street to the driver of emergency vehicles.

(3) If the address sign is placed on the residence, it is important that it be visible, from the street, to the driver of emergency vehicles.

(4) It shall be the duty of the owner and/or occupant of each vacant lot, occupied building, or residence in the unincorporated areas of the county to have placed upon his property the number assigned by the county and to maintain and replace when necessary such number so that the number is at all times visible and readable.

(b) Road signs shall conform to approved county standards for color, overall size, lettering size, and height referred to herein. Road signs shall be installed and maintained by the county except that land owners requesting a road name change pursuant to the provisions set out herein shall be responsible for the cost of replacing the road sign according to the established fee schedule for road name changes.

(c) Based on the Manual on Uniform Traffic Control Devices (MUTCD), the county applies the following standards:

(1) The minimum vertical clearance should be eight feet to the bottom of the sign for post top-mountings.

(2) The sign colors should be reflectorized. The letters and background shall be of contrasting colors and should have white letters and border on a green background.

(3) Lettering on road name signs should be four-inch-high uppercase letters.

(4) Letters should conform with the standard alphabets for highway signs printed by the Federal Highway Administration, such as RD, LN, CT, AV, CR, etc.

(5) The most commonly used material for mounting is either extruded aluminum with a 0.25 inch flange thickness and a 0.090-inch web (min.) or flat sheet aluminum with a minimum thickness of 0.125 inch.

(6) Road signs should be placed at least on diagonally opposite corners so that they will be on the far right-hand side of the intersection for traffic on the major street.

(7) Road signs should be mounted with their faces parallel to the streets they name.

(8) In residential districts, at least two road name signs should be mounted at each intersection.

(9) In rural districts, signs should be placed to identify important roads not otherwise marked.

(Ord. No. 02-03-21.11C, § 10, 3-21-2002)

Sec. 32-72. - Prohibitions.

No building permit shall be issued within jurisdiction of the county until addresses have been approved. To ensure the maintenance and preservation of the addressing system, the county imposes the following prohibitions:

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(1) Only persons authorized by the county may install or erect road signs, except as otherwise permitted by the county for subdivisions or developments.

(2) Only county authorized persons may remove, alter, or change a road name sign or physical address installed or maintained in accordance with this article.

(3) No person shall install or cause to be installed any utility service, including, but not limited to, electric, gas, water, sewer, telephone or cable television or any building required by this article to be assigned an address without first receiving a building permit and an address for that location. Utility companies must obtain approval from the planning and zoning department prior to installation.

(4) The county has the discretion to reject any submitted road names.

(Ord. No. 02-03-21.11C, § 11, 3-21-2002)

Sec. 32-73. - Nonconforming names or addresses.

(a) The street name or lot address that fails to meet the requirements of this article will be recognized as a legal nonconforming preexisting or "grandfathered" name or address. All street names and lot addresses in the unincorporated area of the county must meet the requirements of this article. The lot owner shall be given 365 calendar days to correct a preexisting but incorrect address after written notice from the addresser.

(b) Any preexisting incorrect address shall be immediately removed and replaced with the correct address upon written notification by the addresser.

(Ord. No. 02-03-21.11C, § 13, 3-21-2002)

Sec. 32-74. - Variance.

(a) *Approval.* The commission may approve a variance to the strict application of the requirements of this article in cases where such application will result in a practical difficulty or unnecessary hardship for a resident or property owner, or it can be shown that strict compliance with the requirements of this article would result in extraordinary hardship to the applicant. Before granting a request for a variance, the commission must determine that such a variance will not:

(1) Cause a significant hazard, annoyance, or inconvenience to the owners of nearby property.

(2) Impair the operations of the emergency services departments.

(3) Threaten the health, safety, and welfare of county residents.

(b) *Application.* Any request for variance shall be submitted in writing to the addresser on a prescribed application form obtainable from the addresser. The application form must be accompanied by the required filing fee as well as by any supplementary material the applicant believes will assist the commission in making their determination. The addresser may request additional material if it is believed such material will be useful to the commission in making its determination. Upon receipt of the application and filing fee, the addresser shall, as soon as possible, transmit copies of that application and any supplementary material to the commission.

(c) *Decision.* Within 60 days of receipt of a completed application and any supplementary material in the office of the addresser, the commission shall issue their decision on the request. During that time, the commission may ask for further information from the addresser if he believes such information is necessary to his deliberations. Any decision on a variance request shall be made in writing and shall be mailed to the applicant with copies transmitted to the addresser and to all members of the addressing committee. In making their decision, the commission may either:

(1) Approve the request;

(2) Approve the request with conditions; or

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(3) Deny the request.

Findings of fact shall be set out by the commission supporting their decision. The decision of the commission shall be the final administrative remedy available under this article.

(Ord. No. 02-03-21.11C, § 14, 3-21-2002)

Sec. 32-75. - Appeals.

(a) *Right of appeal.* Any landowner aggrieved by a decision of the addresser in carrying out the provisions of this article may appeal such decision to the county planning and zoning board within 15 working days of the addresser's decision. Such appeal must set forth specifically wherein it is claimed there is an error or an abuse of discretion, or where the decision was not supported by evidence in the matter. Further appeal of the zoning commission's decision is to the board of commissioners, as set forth in subsection (c) of this section.

(b) *Application.* Any appeal following a decision of the addresser shall be made in writing to the board of county commissioners on prescribed forms obtainable from the zoning officer upon payment of the applicable filing fee. Appeals shall be filed within 15 working days of the date of the addresser's decision.

(c) *Public hearing.* The decision on an appeal shall be made by the board of county commissioners following a public hearing. The public hearing before the board of county commissioners shall be scheduled within 30 calendar days of the date a completed application is filed.

(d) *Notification.* Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the county at least 15 days prior to the hearing.

(e) *Decision.* An appeal shall be decided within three months of the date of the application of the appeal.

(f) *Finality of decision.* The decision of the board of county commissioners shall become final on the date the decision is recorded by the county clerk.

(Ord. No. 02-03-21.11C, § 15, 3-21-2002)

Sec. 32-76. - Fee schedule.

(a) *Applications.* Any applications required by this article shall be filed with the required filing fee on prescribed forms obtainable from the planning and zoning department. Such fees shall not be required where the county or any official thereof is the moving party.

(b) *Fees.* Filing fees will be as established from time to time by resolution.

(c) *Late fee penalty.* Applications for and fees collected after the fact shall be double as that referenced in subsection (b) of this section.

(Ord. No. 02-03-21.11C, § 18, 3-21-2002)

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Chapter 33 - RESERVED

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Chapter 34 - SUBDIVISIONS [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - CLAIM OF EXEMPTION

ARTICLE III. - SUMMARY REVIEW PROCESS

ARTICLE IV. - PREAPPLICATION PROCESS

ARTICLE V. - PRELIMINARY PLAT REVIEW PROCESS

ARTICLE VI. - REQUIRED IMPROVEMENTS

ARTICLE VII. - DESIGN STANDARDS

ARTICLE VIII. - FINAL PLAT REVIEW PROCESS

ARTICLE IX. - SPECIAL PROCEDURES

ARTICLE X. - APPEALS

ARTICLE XI. - ENFORCEMENT, PENALTIES, AND REMEDIES

APPENDIX A. - DEVELOPMENT PLAN FOR SOUTHEASTERN SANDOVAL COUNTY

APPENDIX B. - DISCLOSURE STATEMENT FOR ALL TYPE 1, 2, 4 AND TYPE 3 SUBDIVISIONS OVER FIVE LOTS

APPENDIX C. - PLAT PREPARATION STANDARDS

FOOTNOTE(S):

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State Law reference— County board approval of subdivisions in unincorporated areas, NMSA 1978, § 3-20-6; Subdivision Act, NMSA 1978, § 47-6-1 et seq. (Back)

ARTICLE I. - IN GENERAL

Sec. 34-1. - Title.

Sec. 34-2. - Authority.

Sec. 34-3. - Purpose.

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Sec. 34-8. - Definitions.

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Sec. 34-10. - Amendments to be made by ordinance.

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Sec. 34-1. - Title.

This chapter shall be known and may be cited as the "Sandoval County Subdivision Regulations" and shall be referred to elsewhere herein as "this chapter" or "these regulations."

(Ord. of 7-3-2003, § 1.1)

Sec. 34-2. - Authority.

These regulations are created pursuant to the enabling authority set forth in NMSA 1978, § 47-6-1 et seq. (1995 repl. pamp.); NMSA 1978, § 4-37-1 et seq.; and NMSA 1978, §§ 3-20-5, 3-20-6, and 3-20-9.

(Ord. of 7-3-2003, § 1.2)

Sec. 34-3. - Purpose.

These regulations are adopted for the following purposes:

(1) To provide for and protect the public health, safety, and general welfare of the county;

(2) To guide the future growth and development of the county;

(3) To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population;

(4) To 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;

(5) To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land; and

(6) To prevent the pollution of air, streams, and ponds; to ensure 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.

(Ord. of 7-3-2003, § 1.3)

Sec. 34-4. - Jurisdiction.

These regulations shall govern all subdivision of land not within the boundaries of municipalities and not held in trust or ownership by the federal government or the state, but within the county. Appendix A, Development Plan for Southeastern Sandoval County, is attached to this chapter to specifically regulate subdivision development within the boundaries established in the appendix. 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 NMSA 1978, §§ 3-20-5 and 3-20-9.

(Ord. of 7-3-2003, § 1.4)

Sec. 34-5. - Written decisions.

Whenever the board of county commissioners or its delegate is required by these regulations to make a decision, notice of that decision shall be made in writing to the applicant. The decision shall include a statement setting forth the board's reasoning and the basis of the board's decision.

(Ord. of 7-3-2003, § 1.5)

Sec. 34-6. - Interpretation.

The provisions of these regulations are held to be minimum requirements. Whenever any provisions of these regulations conflict with other laws, regulations, or ordinances, the more restrictive shall govern.

(Ord. of 7-3-2003, § 1.6)

Sec. 34-7. - Ways to subdivide property.

This chapter is divided into three parts:

(1) Article II is for dividing property under an exemption.

(2) Article III is for dividing property under a summary plat procedure.

(3) Articles IV through XII are for dividing property which requires preliminary and final plat approval before the planning and zoning commission and the board of county commissioners.

(Ord. of 7-3-2003, § 1.7)

Sec. 34-8. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural use means the use of land for the production of plants, crops, trees, forest products, orchard crops, livestock, poultry, or fish. The term "agricultural use" also includes the use of land that meets the requirements for payment of or other compensation pursuant to soil conservation program under an agreement within an agency in the federal government.

Alternative disposal system means an individual liquid waste disposal system which is not a conventional disposal system. It is commonly used where limiting soil conditions exist. Some examples of alternative disposal systems are deep trench, seepage pit, fill, sand filter, sand mound, evapotranspiration, and land application.

Arroyo means a dry wash or draw which flows only occasionally.

Bedrock means consolidated earth materials. It includes fractured and cavernous rock.

Body of water means all constrained water including water situated wholly or partly within or bordering the state, whether surface or subsurface, public or private.

Canal means a manmade ditch or channel that carries water for purposes other than domestic consumption.

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Common promotional plan means any plan or scheme of operation, undertaken by a single subdivider or a group of subdividers acting in concert, to offer for sale or lease parcels of land where such land is either:

(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.

The implementation of a common promotional plan for the purposes of circumventing any part of these regulations shall be considered a violation of this chapter.

Community liquid waste system means a liquid waste system which receives a design flow of more than 2,000 gallons of liquid waste per day. It is subject to the state groundwater and surface water quality protection regulations (20 NMAC 6.2).

Contiguous refers to adjacent parcels sharing a boundary line or separated only by a road, right-of-way, or easement.

Conventional disposal system means an individual liquid waste disposal system that is a below grade soil absorption system with an excavated depth no deeper than four feet from the ground surface. Some examples of conventional disposal systems are absorption trenches and seepage beds.

Degrade a body of water means to reduce the physical, chemical, or biological qualities of a body of water. It includes the release of material which could result in the exceeding of standards established in the state water quality standards for interstate and intrastate streams, by the state groundwater and surface water quality protection regulations (20 NMAC 6.2), and by the state drinking water regulations (20 NMAC 7.1).

Design flow means the liquid waste flow rate for which a liquid waste system must be designed in order to assure acceptable system performance. It is generally governed by regulations, standards, codes, and accepted references.

Disclosure statement means a statement required to be given to persons acquiring an interest in subdivided land; this statement complies with the requirement of NMSA 1978, § 47-6-17 (1995 repl. pamp.).

Edge of a watercourse canal or arroyo means that point of maximum curvature at the upper edge of an arroyo definite bank or, if no definite bank exists, the highest point where signs of seasonal high-water flow exist.

Engineer means a person authorized to practice professional engineering in the state.

Final plat means a 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 for record.

Floodplain means any area which will be flooded by high water from a 100-year frequency storm as determined by the Federal Emergency Management Agency (FEMA).

Groundwater means interstitial water, which occurs in saturated earth material. It is capable of entering a well in sufficient amounts to be utilized as a water supply.

Hazard to public health means the indicated presence in water or soil of chemical, biological or other agents under such conditions that they may adversely impact human health.

Immediate family member means a 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 adoption.

Individual liquid waste system means a liquid waste system which receives a design flow of 2,000 or less gallons of liquid waste per day. It is subject to the state liquid waste disposal regulations (20 NMAC 7.3).

Lease means to lease or offer to lease land.

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Liquid waste means domestic wastewater (sewage). It includes non-liquid-carried excreta.

Liquid waste disposal system means a component of a liquid waste system which disposes of the discharge from a liquid waste treatment system.

Liquid waste system means a system which is designed, constructed, operated, and maintained to receive, treat and dispose of liquid wastes. It usually consists of collection, treatment, and disposal components.

Liquid waste treatment system means a component of a liquid waste system which removes, reduces, or alters the objection constituents of liquid waste.

Net lot size means the area of a lot excluding any area dedicated by easement or use to provide vehicular passage to more than one lot or more than five residential or commercial units on a single lot.

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

Percolation rate means the rate of entry of water into soil. It is determined from a standard percolation test performed on the soil at the depth of the proposed soil absorption system.

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

Potential source of contamination means any source which could release substances resulting in the contamination degradation of a body of water and a hazard to public health.

Preliminary plat means a 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.

Private water supply system means a water supply system that has less than 15 service connections or serves less than 25 individuals.

Privy means a receptacle for non-liquid-carried excreta. It allows direct discharge to the soil.

Public water supply system means a water system which has at least 15 service connections or serves at least 25 individuals. It is subject to the state drinking water regulations (20 NMAC 7.1).

Representative water sample means a water sample which can be expected to reflect the current quality of the water proposed for use within the subdivision. A water sample (and water quality analysis) more than three years old is not considered representative.

Seasonal high ground means the highest level to which the upper surface of the groundwater table water may be expected to rise within a one-year period.

Sell means to sell or offer to sell land.

Soil survey means 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.

Solid waste means any garbage, rubbish, or other discarded material which results from residential, commercial, institutional, industrial or recreational activities. Systems for the collection, transportation, and disposal of solid waste are subject to the solid waste management regulations (20 NMAC 9.1).

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

Subdivider.

(1) The term "subdivider" means 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.

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(2) However, the term "subdivider" does not include any duly licensed real estate broker or salesperson acting on another's account.

Subdivision.

(1) The term "subdivision" means 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.

(2) However, the term "subdivision" does not include:

a. Sale, lease, or other conveyance of any parcel that is 35 acres or larger in size within any 12-month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with NMSA 1978, § 7-36-20, for the preceding three years;

b. Sale or lease of apartments, offices, stores or similar space within a building;

c. Division of land within the boundaries of a municipality;

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

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

f. Division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities and will not be used for any development purposes;

g. 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;

h. Division of land to create burial plots in a cemetery;

i. 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 and such a transfer is subject to the following limitations:

1. Property transferred between spouses must be sole and separate property at the time of its acquisition by the grantor spouse as sole and separate is defined by the state statutes and state case law regarding community property. If a spouse claims that a parcel is his sole and separate property, the applicant must submit sufficient documentation to the county attorney to show that the real estate in question was acquired with separate assets;

2. No gifts of real property to minor children will be permitted without full compliance with Uniform Transfers to Minors Act, NMSA 1978, § 46-7-11 et seq.;

3. No parcel of real property may be transferred within 18 months of the date of recording of the plat creating said parcel to any individual who is not an immediate family member of the grantor as defined by this section, except by probate proceedings, an order from the district court, or a transfer on death deed executed pursuant to applicable state statutes;

j. Division of land created to provide security for mortgages, liens, or deeds of trust, provided that the division of land is not the result of a seller-financed transaction;

k. Sale, lease, or other conveyance of land that creates no parcel smaller than 140 acres;

l. Division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college, or other

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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

m. Sale, lease, or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, provided that a second or subsequent sale, lease or other conveyance from the same tract of land shall be subject to the provisions of the New Mexico Subdivision Act and the county subdivision regulations.

Terrain management means 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 means the time of signing any document obligating the person signing the document to purchase, lease, or otherwise acquire a legal interest in land.

Total design flow means the sum of liquid waste design flows for all liquid waste systems on a lot. The maximum total design flow (gallons per day) permitted on any lot is determined by multiplying the net lot size (acres) by 500.

Tract means a parcel of land; an area of real estate that is frequently subdivided into smaller parcels (American Institute of Real Estate Appraisers).

Types of subdivisions.

Type one subdivision means any subdivision containing 500 or more parcels, any one of which is less than ten acres in size.

Type two subdivision means any subdivision containing 25 or more, but not more than 499 parcels, any one of which is less than ten acres in size.

Type three subdivision means any subdivision containing not more than 24 parcels, any one of which is less than ten acres in size.

Type four subdivision means any subdivision containing 25 or more parcels, each of which is ten acres or more in size.

Type five subdivision means any subdivision containing not more than 24 parcels, each of which is ten acres or more in size.

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

Water supply source means a well, spring, infiltration gallery, surface water intake structure, or other source of water used to furnish water to a public or private water supply system.

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Water supply system or *water system* means a system which is designed, constructed, operated, and maintained to provide water suitable for domestic uses. It usually consists of source, treatment, transmission, storage, pumping, and distribution facilities.

Watercourse means any river, creek, arroyo, draw, wash, or any other channel having definite banks and bed with visible evidence of at least an occasional flow of water.

(Ord. of 7-3-2003, art. 2)

Sec. 34-9. - Administrative fees.

(a) *Required.* Any person desiring to subdivide land in the county shall pay the following administrative fees:

Preliminary plat	$ 75.00/lot
Final plat	25.00/lot
Summary review plat	20.00/lot
Variance	75.00
Appeal	100.00
Statement of vacation	50.00
Claim of exemption	50.00

(b) *Engineering fees.* To cover engineering expenses related to reviewing subdivisions and subsequent construction under this chapter, an engineering fee equal to 105 percent of the actual costs to the county for engineering review shall be charged. This fee shall be paid in full prior to the recording of any final plat in the office of the county clerk or the release of any required improvement guarantees that have been posted by the subdivider as a condition of plat approval.

(Ord. of 7-3-2003, art. 11)

Sec. 34-10. - Amendments to be made by ordinance.

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 NMSA 1978, § 4-37-1 et seq., as amended, and in accordance with NMSA 1978, § 47-6-1 et seq., as amended.

(Ord. of 7-3-2003, art. 14)

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Secs. 34-11—34-36. - Reserved.

ARTICLE II. - CLAIM OF EXEMPTION

Sec. 34-37. - Application and approval process.

Sec. 34-38. - Approval required.

Sec. 34-39. - Approval of exemption.

Sec. 34-40. - Appeal from exemption decision.

Sec. 34-41. - Types of exemptions.

Sec. 34-42. - Special procedures.

Secs. 34-43—34-72. - Reserved.

Sec. 34-37. - Application and approval process.

This article deals with dividing property through a claim of exemption. Exemptions are designed so that historic methods of transferring land are preserved.

(Ord. of 7-3-2003, § 3.1(intro.); Ord. No. 06-06-01.9A, § 3.1(intro.), 6-1-2006)

Sec. 34-38. - 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 section 34-39. Notwithstanding the requirements of section 34-39, persons seeking approval of exemptions defined by section 34-41(8) for land located within the Placitas Area shall follow the procedure listed in section 34-42.

(Ord. of 7-3-2003, § 3.1(3.1.2); Ord. No. 06-06-01.9A, § 3.1(3.1.2), 6-1-2006)

Sec. 34-39. - Approval of exemption.

(a) Any person claiming entitlement to an exemption under the provisions of these regulations shall first file a written claim of exemption on the prescribed form available from the county planning staff accompanied by the required fee.

(b) Persons claiming any exemption listed under items under section 34-41(1), (3) through (6), and (8) through (12) shall submit a paper copy of a plat map showing the proposed division of land, clearly identifying the requested exemption, and prepared in conformance with the applicable specifications of appendix C to this chapter.

(c) The county planning staff shall review the claim of exemption and supporting documents, including the paper copy of the plat map, and shall inform the applicant of whether the exemption has been approved or denied within 30 days after receipt of the completed claim of exemption; provided, however, that the 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, including the paper copy of the plat map, to the county planning staff.

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(d) If the claim of exemption is approved, or if the county planning staff fails to notify the claimant within 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.

(e) If the claim of exemption is denied, the person claiming the exemption may appeal the denial as provided in section 34-40 or may submit an application for a subdivision as provided in these regulations.

(f) An approved final plat for a claim of exemption may not be recorded until the delegated member of the county planning staff properly signs the plat. The county planning staff shall not sign an approved final plat for a claim of exemption until any appeal filed under section 34-40 is decided, or the time for filing such an appeal is expired. The claim of exemption plat is in effect only after having been recorded in the office of the county clerk within one year after the date of approval of the claim of exemption by the county planning staff.

(Ord. of 7-3-2003, § 3.1(3.1.3); Ord. No. 06-06-01.9A, § 3.1(3.1.3), 6-1-2006)

Sec. 34-40. - Appeal from exemption decision.

Any party adversely affected by the decision of the county planning staff or planning and zoning commission regarding an exemption shall, within 15 days of that decision, file an appeal to the board of county commissioners on a form prescribed for such by the county planning staff. If the 15th day falls upon a weekend, legal holiday, or any other day that the county offices are closed, the appellant has until close of business on the next working day after the closure to file the appeal. Such appeal shall be accompanied by the required fee and must be perfected within the specified time frame in order to be considered. An appeal is considered perfected upon receipt of the form, the required fee, and a written notice setting forth the basis of the appeal and identifying any alleged error, abuse of discretion, or instance wherein the decision was otherwise not in accordance with law. In order for the appeal to be perfected, the notice of appeal must also state how the appellant will be adversely affected by the decision upon which the appeal is based. The adverse affect must be particular or personal to the appellant and not a generalized affect that applies to the public as a whole. The board shall schedule a hearing on a perfected appeal within 30 days of its receipt by the county planning staff. Notification of the time and place at which the board will hear the appeal shall be published in a newspaper of general circulation in the county at least 15 days prior to the hearing. At the same time, notice shall be provided via certified mail, return receipt requested, to the appellant as well as to the original applicant (if he is not the appellant). The board shall conduct the appeal proceedings pursuant to section 34-274.

(Ord. of 7-3-2003, § 3.1(3.1.4); Ord. No. 06-06-01.9A, § 3.1(3.1.4), 6-1-2006; Ord. No. 08-09-04.9A, § 3.1.4, 9-4-2008)

Sec. 34-41. - Types of exemptions.

A list of the exemptions for which approval must be sought pursuant to this article is provided below:

(1) Sale, lease, or other conveyance of any parcel that is 35 acres or larger in size within any 12-month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with NMSA 1978, § 7-36-20, for the preceding three years.

Example: A farmer in Pena Blanca owns a section of land which has been farmed continually by his family for generations; he sells 38 acres to an abutting farmer so the abutter can increase the size of his fields.

(2) Sale or lease of apartments, offices, stores or similar space within a building.

Example: A property owner owns an office building; he sells 1,500 square feet of space within the building as an office.

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(3) Division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land.

Example: A property owner who has water rights appurtenant to the property chooses to sell those water rights to another individual.

(4) Division of land created by court order where the order creates no more than one parcel per party.

Example: Mr. X has five children and 25 acres of land, his wife is deceased and his will must be probated; the probate judge decrees that each child will receive one parcel of land, five acres in size.

(5) Division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities; and will not be used for any development purposes.

Example: Mr. X has 50 acres of grassland on which he runs sheep. Mr. X sells five acres of his land to Mr. Y with a deed restriction that the five acres will continue to be used for grazing.

(6) 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.

Example: Mr. X has a subdivision which has 26 five-acre parcels. Mr. X replats the 26 parcels into 13 ten-acre parcels.

(7) Division of land to create burial plots in a cemetery.

Example: Mr. X owns five acres. He divides the five acres into 200 cemetery plots.

(8) 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 and such a transfer is subject to the following limitations:

a. Property transferred between spouses must be sole and separate property at the time of its acquisition by the grantor spouse as sole and separate is defined by the state statutes and state case law regarding community property. If a spouse claims that a parcel is his sole and separate property, the applicant must submit sufficient documentation to the county attorney to show that the real estate in question was acquired with separate assets.

b. No gifts of real property to minor children will be permitted without full compliance with the Uniform Transfers to Minors Act, NMSA 1978, § 46-7-11 et seq.

c. Any parcel of real property that is transferred pursuant to this provision may not be transferred within 18 months of the date of recording of the plat creating said parcel to any individual who is not an "immediate family member" of the grantor as defined by this article, except by probate proceedings, an order from the district court, or a transfer on death deed executed pursuant to applicable state statutes.

Example: Mr. X owns a 50-acre tract of land and has ten immediate family members. In a living will, Mr. X gives each one of his immediate family members one five-acre parcel.

(9) 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.

Example: Mr. X owns 25 acres of land free and clear. He needs money to build a house and arranges for a bank to lend him the money based on the value of eight acres of his property. Mr. X then divides his property to create two parcels; an eight-acre piece to secure the loan and a 17-acre piece representing the balance of his property.

(10) Sale, lease, or other conveyance of land that creates no parcel smaller than 140 acres.

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Example: Mr. X has a section of land (640 acres). He can create and sell four 160-acre parcels.

(11) Division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college, or other institution with a defined curricula 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.

Example: Mr. X owns 20 acres of land and gives ten acres to the University of New Mexico for research.

(12) Sale, lease, or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, provided that a second or subsequent sale, lease or other conveyance from the same tract of land shall be subject to the provisions of the New Mexico Subdivision Act and these regulations.

Example: Mr. X owns five acres but needs some cash. Mr. X creates a three-acre piece. That plat that is filed must clearly identify the limitations of this exemption.

(Ord. of 7-3-2003, § 3.1(3.1.5); Ord. No. 06-06-01.9A, § 3.1(3.1.5), 6-1-2006)

Sec. 34-42. - Special procedures.

(a) Any person claiming entitlement to an exemption as defined by section 34-41(8) for land located within the Placitas Area shall first file a written claim of exemption on the prescribed form available from the county planning staff accompanied by the required fee and by a paper copy of a plat map showing the proposed division of land prepared in conformance with the applicable specifications of appendix C to this chapter.

(b) Such a claim must also be accompanied by documents establishing the familial relationship of the proposed grantees to the grantor and an affidavit, provided by the county planning staff, which is completed and contains the notarized signature of the land owner(s) claiming this exemption. Unfiled copies of all deeds conveying tracts created by the exemption plat that identify the family member receiving each tract must be submitted.

(c) The county planning staff shall review the claim of exemption and all supporting documents, including the paper copy of the plat map, for completeness and shall, once the application is complete, schedule the application for review and rendering of decision at a public hearing held by the planning and zoning commission. The public notice and hearing procedures for a plat under this section shall conform to those specified by appendix A to this chapter.

(d) Decisions rendered by the planning and zoning commission on an exemption plat submitted under this section shall be made pursuant to appendix A to this chapter and the procedures for appeals shall be that outlined in appendix to this chapter. Recording procedures for a plat under this section shall conform to appendix A to this chapter, except that plats submitted for signature must be accompanied by original copies of the deed conveying tracts created by the plat. Such deeds must contain language stating clearly that no water availability assessment was performed for the tract in question and that, only under only exceptional circumstances will said tract be conveyed back to the grantor. Submitted deeds must be recorded simultaneously with the approved plat and documentation of deed recordation must be provided to the county planning staff. Exceptional circumstances include, but are not limited to, death or disability of the grantee to use the property for its intended purpose or such other factors as may be deemed persuasive in the sole discretion of the county. Exceptional circumstances may be presented to the planning and zoning commission, which may act upon such request or refer it to the board of county commissioners. Decisions by the planning and zoning commission on such matters may be appealed to the board of county commissioners, pursuant to the procedures set forth in section 34-274. The burden of proving such an exceptional circumstance is upon the applicant.

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(e) Family transfer exemptions under this section must fit certain categories. By way of example, but not of limitation, such categories include probates, gifts, or a parcel for a family member to build a home. Nothing herein shall be construed to alter or negate applicable IRS gift restrictions and the county's approval of a family transfer shall not be construed as evidence of value for purposes of IRS gift regulations. In the event the family transfer is requested for construction of a home for a family member, construction must commence within one year of approval of the plat. In the event that such construction has not commenced within one year, the board of county commissioners may vacate the plat under section 34-245 or, upon application, grant additional time for good cause. "Good cause" shall be determined in the sole discretion of the county.

(Ord. No. 06-06-01.9A, § 3.1(3.1.6), 6-1-2006)

Secs. 34-43—34-72. - Reserved.

ARTICLE III. - SUMMARY REVIEW PROCESS

Sec. 34-73. - Procedure.

Sec. 34-74. - Summary plat data requirements.

Sec. 34-75. - Water availability assessment for type three containing less than six parcels and all type five subdivisions.

Secs. 34-76—34-93. - Reserved.

Sec. 34-73. - Procedure.

(a) *Qualifications.* The following types of subdivisions shall be submitted to the county for approval under summary review procedure:

(1) Type three subdivisions containing five 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

(2) All type five subdivisions.

(b) *Application; fees.* The following shall be submitted to the county planning staff:

(1) Completed application obtained from the planning department;

(2) Summary plat without contours;

(3) Proposed disclosure statement.

(c) *Review.* Summary plats submitted to the county for approval shall be approved or disapproved by a delegated member(s) of the county planning staff within 30 days of the date the summary plat is deemed complete. The summary plat shall be deemed complete within ten days after receipt of the application, summary plat, and all supporting documentation. The board of county commissioners has delegated to a designated member(s) of the county planning staff the authority to approve certain type three and all type five subdivision under summary review.

(d) *Additional requirements.* The delegated member(s) of the county planning staff may request additional requirements to satisfy any inadequacies revealed during the review process.

(e) *Improvement agreement.* If, at the time of approval of the summary plat, any public improvements have not been completed by the subdivider as required by these regulations, a designated member(s) of the county planning staff shall, as a condition preceding approval of the summary plat,

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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.

(f) *Failure to act.* If the designated member(s) of the county planning staff does not act upon a summary 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 plat within 30 days after such notice, the board of county commissioners shall, upon demand by the subdivider, issue a certificate the summary review plat has been approved.

(g) *Appeal.* Any party adversely affected by a decision of the designated planning staff member or planning and zoning commission regarding a summary plat shall, within 30 days of the date of that decision, file an appeal to the board of county commissioners on a form prescribed for such by the county planning staff. If the 30th day falls upon a weekend, legal holiday, or any other day that the county offices are closed the appellant has until close of business on the next working day after the closure to file the appeal. Such appeal shall be accompanied by the required fee and must be perfected within the specified time frame in order to be considered. An appeal is considered perfected upon receipt of the form, the required fee, and a written notice setting forth the basis of the appeal and identifying any alleged error, abuse of discretion, or instance(s) wherein the decision was otherwise not in accordance with law. In order for the appeal to be perfected, the notice of appeal must also state how the appellant will be adversely affected by the decision upon which the appeal is based. The adverse affect must be particular or personal to the appellant and not a generalized affect that applies to the public as a whole. The board shall schedule a hearing on a perfected appeal within 30 days of its receipt by the county planning staff. Notification of the time and place at which the board will hear the appeal shall be published in a newspaper of general circulation in the county at least 15 days prior to the hearing. At the same time, notice shall be provided via certified mail, return receipt requested, to the appellant as well as to the original applicant (if he is not the appellant). The board shall conduct the appeal pursuant to section 34-274

(Ord. of 7-3-2003, § 4.1; Ord. No. 08-09-04.9A, § 4.1.7, 9-4-2008)

Sec. 34-74. - Summary plat data requirements.

(a) *Filing specifications.* The original drawing of the summary plat shall be submitted in waterproof ink on Mylar or acetate or other durable material suitable for reproducing copies. Summary plat maps shall be drawn at a scale of 200 feet to one inch or larger and printed on sheets of 24 inches by 36 inches. The subdivider shall also submit two paper copies of the summary plat map and accompanying information.

(b) *Map specifications.* The summary plat map shall be prepared in accordance with the applicable specifications of appendix C to this chapter.

(c) *Affidavit.* The summary plat shall contain a statement that the land being subdivided will be subdivided in accordance with the summary plat. The summary plat shall be acknowledged by the owner and subdivider, or authorized agents in the manner required for the acknowledgment of deeds. Every summary 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 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.

(d) *Dedication.* The summary 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. Upon full conformity with county road construction standards, the roads may be accepted for maintenance by the county. Acceptance of offers of dedication on a summary plat shall not be effective until the summary plat is filed in the office of the county clerk or a resolution of acceptance approved by the board of county commissioners and is filed in that office.

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(e) *Disclosure statement.* For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format provided. Subdivisions which create five or fewer lots will adhere to the disclosure statement requirements listed in this subsection. All other subdivisions which qualify for summary plat review must be accompanied by a disclosure statement prepared in accordance with appendix B to this chapter. 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, county planning department, and the attorney general's office; and until the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement. The disclosure statement shall include the following:

(1) The name of the subdivision;

(2) Name and address of the subdivider and the name and address of the person in charge of sales or leasing in the state;

(3) Name and address of the person who is recorded as having legal and equitable title to the land offered for sale, lease or other conveyance;

(4) A statement of the condition of title including any encumbrances;

(5) A statement of all restrictions or reservations of record that subject the subdivided land to any conditions affecting its use or occupancy;

(6) A statement that the liquid waste disposal plan for each lot is subject to approval by the state environment department;

(7) A description of the means of water delivery within the subdivision;

(8) 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 that the maintenance will take place; and

(9) A statement disclosing whether all or part of any lot lies within a floodplain.

(10) A statement disclosing the limitations on future use of the summary subdivision procedure as described in subsection (i) of this section.

(f) *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 instead 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.

(g) *Advertising standards.* The advertising standards covering the sale, lease, or other conveyance of subdivided land provided in section 34-215 shall be applicable to summary review plats.

(h) *Recording.* An approved summary plat and accompanying materials may not be recorded until the delegated member of the county planning staff properly signs the plat. The county planning staff shall not sign an approved summary plat until any appeal filed under section 34-73(g) is decided, or the time for filing such an appeal is expired. The summary plat is in effect only after having been recorded in the office of the county clerk within one year after the date of approval of the plat by the county planning staff.

(i) *Limitation of summary review procedure.* Any tract of land originally created through the summary review procedure or the process outlined in articles IV through VIII of this chapter cannot be further subdivided under the provisions of article III of this chapter if the total number of tracts created from the original parent tract is to exceed five within a period of seven years from the date of recording of the original plat in the office of the county clerk. The language of this section shall be referenced as required on the disclosure statement for all plats.

(Ord. of 7-3-2003, § 4.2)

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Sec. 34-75. - Water availability assessment for type three containing less than six parcels and all type five subdivisions.

If the source of water supply will be an existing community water system or a municipal water system, the subdivider shall submit a water availability assessment containing the following information:

(1) Name of the utility proposed as the source of supply; and

(2) Letter of intent from the utility that they are ready, willing, and able to provide the maximum annual water requirements for the subdivision if applicable.

(Ord. of 7-3-2003, § 4.3)

Secs. 34-76—34-93. - Reserved.

ARTICLE IV. - PREAPPLICATION PROCESS

Sec. 34-94. - Procedure.

Sec. 34-95. - Data requirements.

Secs. 34-96—34-118. - Reserved.

Sec. 34-94. - Procedure.

(a) *Conference.* For the purpose of expediting applications and reducing subdivision design and development costs, the subdivider will hold an informal pre-application conference in accordance with the requirements provided in these regulations. The pre-application conference is intended to provide general advice to the subdivider about the procedures and data requirements for subdivision review and approval in the county.

(b) *Scheduling.* At the request of the subdivider, the county planning staff shall schedule a pre-application conference in order for the subdivider to meet with appropriate county representatives and to become acquainted with the necessary requirements for subdivision review and approval.

(c) *Fee.* No fee shall be required for a pre-application conference.

(d) *Statements non-binding.* Neither the subdivider nor the county shall be bound by any statements made during the pre-application conference.

(e) *Application forms.* At the request of the subdivider, the county planning staff 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.

(Ord. of 7-3-2003, § 5.1)

Sec. 34-95. - Data requirements.

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

(b) *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;

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(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.

(Ord. of 7-3-2003, § 5.2)

Secs. 34-96—34-118. - Reserved.

ARTICLE V. - PRELIMINARY PLAT REVIEW PROCESS

Sec. 34-119. - Preliminary plat submittal.

Sec. 34-120. - Agency review.

Sec. 34-121. - Public hearings, meetings on preliminary plats.

Sec. 34-122. - Expiration of preliminary plat.

Sec. 34-123. - Preliminary plat data requirements.

Secs. 34-124—34-144. - Reserved.

Sec. 34-119. - Preliminary plat submittal.

(a) *Preliminary plat required.* Preliminary plats shall be submitted for type one, type two, certain type three, and type four subdivisions. Certain type three subdivisions which create no more than five lots, any one of which is less than ten acres, and all type five subdivisions are subject to review under the summary procedure set forth in article III of this chapter. Type one subdivisions may only be submitted for lands that lie within the MP (Master Planned District) Zone as defined and regulated by the county comprehensive zoning ordinance, found in appendix A to this Code.

(b) *Application; fees.* A subdivider shall prepare a preliminary plat and supporting documentation in accordance with the requirements provided in these regulations. All supporting documentation shall be compiled into a single bound volume and be tabbed for reference. Preliminary plat submittal is initiated by completing an application on a prescribed form available from the county planning staff, and upon payment of the required administrative fees. The initiation of the preliminary plat process does not constitute a determination of completeness by the planning staff.

(c) *Plat deemed complete.* On receipt of the application, fees, preliminary plat, and supporting documentation, the county planning staff shall review all materials in order to determine if the preliminary plat is ready to begin the formal review process. If there are no deficiencies, the preliminary plat is deemed complete for review by written notice to the subdivider within a reasonable time not to exceed 30 days after the date of application (deadline for preliminary plat applications shall be within the first two weeks of every month). If the preliminary plat is incomplete or does not comply with the submittal requirements provided in these regulations, the subdivider shall be notified and be given a maximum time period of 60 days to correct the deficiencies and return the preliminary plat for consideration.

(Ord. of 7-3-2003, § 6.1)

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Sec. 34-120. - Agency review.

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

(1) State engineer office;

(2) State environment department;

(3) State highway and transportation department;

(4) Soil and water conservation district in which the proposed subdivision is located;

(5) County fire marshal;

(6) County rural addresser;

(7) County public works department;

(8) County sheriff;

(9) Abutting federal, state or Indian lands (where applicable); and

(10) Applicable school districts.

(b) *Agency response.* The state and local agencies shall have 30 days from their receipt of the preliminary plat to review and return an opinion regarding the preliminary plat. The county planning staff shall retain receipts or other proof showing the date the opinion request was received by each state or local agency. Any adverse agency response should detail all deficiencies.

(c) *Hearing deadlines.* If the opinions received from all agencies are favorable, the county shall schedule a public meeting for consideration and recommendation before the planning and zoning commission on the preliminary plat within 30 days following the receipt of such favorable opinion. If the county does not receive a requested opinion within the specified 30 days, it shall proceed with the public meeting.

(d) *Adverse opinion.* If any opinion from a public agency is adverse, the county planning staff shall forward a copy of the adverse opinion to the subdivider and request that additional information be provided to the county within 30 days to respond to the concerns of the appropriate agency. The county planning staff shall forward such additional information upon receipt to the appropriate agency, which shall have 30 days after the date the county planning staff submits the additional information in order to revise its opinion. The county planning staff shall retain receipts or other proof showing the date the additional information was received by each state or local agency.

(e) *Revised opinion.* The county shall schedule a public meeting for consideration and recommendation before the planning and zoning commission within 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 30 days after the date the county planning staff submits the additional information, it shall proceed with the public meeting.

(f) *Notice.* Notice of the public meeting at which the planning and zoning commission will consider the preliminary plat shall be given at least 15 days before the hearing date. The notice of said meeting shall be published in a newspaper of general circulation in the county and shall at least contain the following information:

(1) Subject of the hearing;

(2) Time and place of the hearing;

(3) Manner for interested persons/parties to present their views; and

(4) Place and manner for interested persons/parties to get copies of any favorable or adverse opinion and of the subdivider's proposal.

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(Ord. of 7-3-2003, § 6.2)

Sec. 34-121. - Public hearings, meetings on preliminary plats.

(a) *Scheduling.* After consideration by the planning and zoning commission the county shall conduct a public hearing before the board of county commissioners within the time periods specified in these regulations. Notice of the public hearing shall be given at least 21 days before the hearing date.

(b) *Notice.* The notice of public hearing shall be published in a newspaper of general circulation in the county and shall at least contain the following information:

(1) Subject of the hearing;

(2) Time and place of the hearing;

(3) Manner for interested persons/parties to present their views; and

(4) Place and manner for interested persons/parties to get copies of any favorable or adverse opinion and of the subdivider's proposal.

(c) *Notification.* Copies of the notice of public hearing shall be transmitted to the following:

(1) The subdivider filing the application for preliminary plat approval;

(2) Those public agencies which initially received copies of the preliminary plat and supporting documentation with a request for opinion; and

(3) Any interested person who previously requested such notice and provided a stamped self-addressed envelope for such purpose.

(d) *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 kept. The opinions of the public agencies shall be made a part of the record.

(e) *Action.* After the public meeting in which the preliminary plat has been heard by the planning and zoning commission, the board of county commissioners shall hold a public hearing for the purpose of rendering a decision. The board of county commissioners' decision shall be based on the record of the planning and zoning commission meeting, the recommendation by the planning and zoning commission, and such additional data, views, or arguments that the board of county commissioners may allow.

(Ord. of 7-3-2003, § 6.3)

Sec. 34-122. - Expiration of preliminary plat.

(a) *Expiration.* An approved or conditionally approved preliminary plat shall expire 24 months after its approval or conditional approval. Upon request by the subdivider, an additional period of no more than 12 months may be added to the expiration date by the board of county commissioners. A request for such an extension must be filed prior to the expiration of the preliminary plat and be accompanied by a letter of explanation prepared by the subdivider.

(b) *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 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 or conditional approval of the preliminary plat.

(c) *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.

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(Ord. of 7-3-2003, § 6.4)

Sec. 34-123. - Preliminary plat data requirements.

(a) *Purpose.* At a minimum, the supporting documentation required for the preliminary plat review shall provide sufficient information for the county to determine that:

(1) Water is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses;

(2) Water is of an acceptable quality for human consumption and measures are taken to protect the water supply from contamination;

(3) There is a means of liquid waste disposal for the subdivision;

(4) There is a means of solid waste disposal for the subdivision;

(5) There are satisfactory roads to each parcel, including entry and exit for emergency vehicles and there are appropriate utility easements to each parcel;

(6) Terrain management protects against flooding, inadequate drainage and erosion and provides measures necessary to adapt the proposed development to existing soil characteristics and topography.

(7) 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;

(8) The subdivider can fulfill the proposals contained in the disclosure statement for the subdivision;

(9) The subdivision will conform to the New Mexico Subdivision Act and these regulations.

(b) *Minimum documentation.* Supporting documentation shall be compiled into a singular report and shall include the following components.

(1) Water supply plan (state engineer's office):

a. Water availability assessment.

b. Annual water requirements for indoor and outdoor domestic use.

c. Community water system (if applicable).

d. Water conservation measures.

e. Fire protection.

(2) Water quality plan (environment department):

a. Water of an acceptable quality for human consumption from public and private water supply systems.

b. Measures to protect the water supply from contamination.

(3) Liquid waste disposal plan (environment department):

a. Individual on-site liquid waste systems.

b. Community liquid waste system (if applicable).

(4) Solid waste disposal plan (environment department):

a. Solid waste collection system.

b. On-lot disposal procedures (if applicable).

(5) Access plan for roads and utilities (state highway and transportation department and county public works department):

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a. Relationship of site to regional highway network and county maintained roads.

b. Transportation access and site circulation.

c. Road design criteria.

d. Traffic impact analysis.

e. Relationship of site to regional utility lines.

f. Livestock fencing.

g. Remediation measures applicant will undertake to ensure that federal, state, and county safety criteria are met for any impacted roads.

(6) Terrain management plan (appropriate soil and water conservation district):

a. Site topography.

b. Soil survey.

c. Grading plan.

d. Landscaping plan.

e. Erosion and drainage plan.

f. Construction schedule.

(7) Cultural properties protection (historic preservation division, office of cultural affairs):

a. Unmarked human burials.

b. Registered cultural properties.

(c) *Filing specifications.* The subdivider shall submit an adequate number of copies as determined by county planning staff of the preliminary plat and supporting documentation for local review and distribution to public agencies. Supporting documentation shall be submitted in a single, attached volume that is tabbed for reference. Preliminary plat maps shall be prepared at a scale of 200 feet to one inch or larger and printed on sheets of 24 by 36 inches. Sheets shall be numbered in sequence if more than one sheet is used.

(d) *Map specifications.* The preliminary plat map shall be prepared in accordance with the applicable specifications of appendix C to this chapter.

(e) *Phased subdivisions.* Subdivisions which are proposed to be phased and filed in multiple final plats shall include an anticipated phasing schedule for the final plats and a schedule of improvements.

(f) *Disclosure statement.* The preliminary plat shall be accompanied by a draft disclosure statement in accordance with the standardized format provided in appendix B to this chapter. A disclosure statement is 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.

(Ord. of 7-3-2003, § 6.5)

Secs. 34-124—34-144. - Reserved.

ARTICLE VI. - REQUIRED IMPROVEMENTS

Sec. 34-145. - Construction of required improvements.

Sec. 34-146. - Road development.

Sec. 34-147. - Improvement guarantees.

Secs. 34-148—34-177. - Reserved.

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Sec. 34-145. - Construction of required improvements.

(a) *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 or acceptable industry standards. 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 public works division and if deemed approved shall allow the subdivision development to proceed.

(b) *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.

(Ord. of 7-3-2003, § 7.1)

Sec. 34-146. - Road development.

(a) *Construction schedule.* Roads within a subdivision shall be constructed only on a schedule approved by the board of county commissioners. In approving or disapproving a subdivider's road construction schedule, the board of county commissioners shall consider:

(1) The proposed use of the subdivision;

(2) The period of time before the roads will receive substantial use;

(3) The period of time before construction of homes will begin on the portion of the subdivision serviced by the road;

(4) The county regulations governing phased development; and

(5) The needs of prospective purchasers, lessees and other persons acquiring an interest in subdivided land in viewing the land within the subdivision.

(b) *Safety.* All proposed roads shall conform to minimum county safety standards.

(c) *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 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.

(Ord. of 7-3-2003, § 7.2)

Sec. 34-147. - Improvement guarantees.

(a) *Assurance.* In order for the county to be assured of the completion of required improvements, the subdivider shall agree to either:

(1) Complete installation of the required improvements before approval of the final plat; or

(2) Assure construction of required improvements after final plat approval.

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(b) *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 suitable 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.

(Ord. of 7-3-2003, § 7.3)

Secs. 34-148—34-177. - Reserved.

ARTICLE VII. - DESIGN STANDARDS

Sec. 34-178. - Quantification of annual water requirements.

Sec. 34-179. - Design requirements for water conservation.

Sec. 34-180. - Nonresidential water demand analysis.

Sec. 34-181. - Community water system requirements.

Sec. 34-182. - Table.

Sec. 34-183. - Water availability assessment for types one, two, type three subdivisions containing six or more parcels and type four subdivisions.

Sec. 34-184. - Water availability assessment for type three containing less than six parcels and all type five subdivisions.

Sec. 34-185. - Terrain management plan.

Sec. 34-186. - Fire protection.

Sec. 34-187. - Traffic impact analysis.

Sec. 34-188. - Water quality documentation.

Sec. 34-189. - Water quality requirements.

Sec. 34-190. - Liquid waste disposal documentation.

Sec. 34-191. - Liquid waste disposal requirements.

Sec. 34-192. - Solid waste disposal documentation.

Sec. 34-193. - Solid waste disposal requirements.

Sec. 34-194. - Road standards; access; road location; arrangements.

Secs. 34-195—34-211. - Reserved.

Sec. 34-178. - Quantification of annual water requirements.

For residential subdivisions the following options shall apply in order to quantify the maximum allowable water use per year/dwelling unit for indoor and outdoor domestic use, for a period of 50 years and determine the most appropriate delivery system. This quantification in no way represents a guarantee by the developer/subdivider of the county of the expectancy of available groundwater. Rather, the 50-year horizon is intended to provide the best possible information to a prospective lot purchaser.

(1) Subdividers who choose to use 0.6 acre feet per year per dwelling unit shall prepare a water conservation plan; or

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(2) The subdivider, may at his option or if requested by the county, prepare a detailed water demand analysis using the step by step computational procedure presented in the relevant state engineer technical report. If the subdivider proposes limiting water use to less than 0.6 acre feet per parcel a water conservation plan or water use restrictive covenants will have to be adopted demonstrating how the subdivider proposes to limit water use. It is not the intent of this regulation to limit the right of the subdivider to propose a development with an annual water use in excess of 0.6 acre feet per dwelling.

(Ord. of 7-3-2003, § 8.1)

Sec. 34-179. - Design requirements for water conservation.

The following water conservation measures or similar measures which will conserve an equal or greater amount of water shall apply to all new subdivisions that intend to go below the maximum annual water requirements of 0.6 acre feet per year per dwelling unit:

(1) Water saving fixtures may be installed in all new residential and nonresidential buildings. Water-saving fixtures may include, but are not limited to, low-flush toilets, low-flow shower heads, low-flow faucets, and insulation of hot water pipes.

(2) Low water use landscaping techniques applying the principles of Xeriscaping should be utilized.

(3) Water distribution mains shall be pressure tested in accordance with New Mexico Standards Specification for Public Works Construction, section 801.16.

(4) If not required by the local plumbing code, where water pressure at the customer service connection exceeds 80 pounds per square inch (psi), a pressure reducing valve shall be installed on the surface connection.

(5) If cisterns are proposed for water collection, then the volume collected in the cistern can be deducted from the total water quantification requirements.

(Ord. of 7-3-2003, § 8.2)

Sec. 34-180. - Nonresidential water demand analysis.

A detailed water demand analysis shall be prepared for all nonresidential subdivisions and all water uses not directly related to residential uses within a mixed development subdivision. Annual water requirements shall be estimated using the relevant state engineer technical report.

(Ord. of 7-3-2003, § 8.3)

Sec. 34-181. - Community water system requirements.

(a) A community water system is any existing or proposed water supply system which relies upon surface water and/or groundwater diversions other than wells permitted by the state engineer under NMSA 1978, § 72-12-1, and which consists of a common storage and/or distribution facilities operated for the delivery of water to multiple service connections. A community water system which serves at least 15 service connections or serves at least 25 individuals is also a public water supply system and is subject to the requirements of the state drinking water regulations (20 NMAC 7.1). (See section 34-182.) All nonresidential service connections, regardless of source of supply, and all residential buildings served by a new community water system shall be metered. Water produced from each well in a new community water system or at each surface water source should also be metered and the volume thereof reported to the state engineer office. A community water system or a similar delivery system shall be required if groundwater is supplied from geologic formations where wells have been determined to produce at a rate of two gpm or less.

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(b) If water will be supplied from a community water system, the subdivider shall submit a plat of the proposed subdivision, and preliminary plans for the water production, storage, and distribution facilities prepared by or under the supervision of a registered professional engineer. The site plans shall show the topography, parcel boundaries, 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 should be a minimum of six inches in diameter.

(c) Shared well systems permitted under NMSA 1978, § 72-12-1 may be allowed for types one, two, three, four, and five (over six parcels), subject to section 34-183, under the condition that the maximum number of parcels served by one well shall not exceed five.

(d) Covenants and land use restrictions may be adopted strictly prohibiting the drilling or use of individual and/or shared domestic wells for any subdivision which requires or utilizes a community water system.

(e) If a community water system is proposed or required, the developer should consult with the state public utilities commission regarding the applicability of the Public Utility Act to that community water system.

(f) For all subdivisions within the county, where the proposed water supply for the subdivision will be other than domestic wells to be approved by the state engineer pursuant to NMSA 1978, § 72-12-1, proof of a valid water right permit issued to the subdivider or to an existing community water system or municipal water system sufficient in quantity to meet the maximum annual water requirement of the proposed subdivision and specifically authorized for this purpose, shall be provided by the subdivider as a condition of approval of the final subdivision plat.

(Ord. of 7-3-2003, § 8.4)

Sec. 34-182. - Table.

This table shows the relation between the delivery system, subdivision type, rate of delivery and water availability:

Subdivision Types	Quantity	Rate	Max. Time Horizon	Delivery System	Availability
1,2,4 and all types 3 and 5 above five parcels	0.6 ac. ft./yr/dwelling unit (or developers calculations)	2 gpm or above	50 years	Individual wells	On site
"	"	[1]	"	Shared wells	On site
"	"	Below 2 gpm	"	Community water system	On/off site
"	"	2 gpm or above	"	Pre-existing community water system	Off site[2]

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;sz=9.5q;[1]System design:

;sz=9.5q;a. The system can deliver at a rate of two gpm or greater the direct link is from a producing well to the dwelling unit; or

;sz=9.5q;b. The system delivers less than two gpm and the link is from a producing well to a storage tank to the dwelling unit.

;sz=9.5q;[2]Off-site sources:

;sz=9.5q;a. The proposed water source is to be delivered to the subdivision from an off site source, that source must be secured; and

;sz=9.5q;b. The source shall be stated in the disclosure statement.

(Ord. of 7-3-2003, § 8.5)

Sec. 34-183. - Water availability assessment for types one, two, type three subdivisions containing six or more parcels and type four subdivisions.

(a) Subdivisions that are being served by an existing public utility shall provide a water availability statement from the approved utility.

(b) A water availability assessment shall be submitted by the subdivider:

(1) As a condition of preliminary subdivision plat approval for all type-one, type-two, and type-four subdivisions, and type-three subdivisions containing six or more parcels.

(2) As a condition of final subdivision plat approval for type-five subdivisions containing six or more parcels.

(c) The requirements of the water availability assessment are dependent on the source of water supply such that:

(1) For subdivisions where the source of water will be a new groundwater diversion and community system permitted pursuant to NMSA 1978, § 72-12-3 or 72-12-7, the subdivider shall demonstrate a 50-year supply, and shall submit a geohydrologic report in accordance with subsection (d) of this section.

(2) For subdivisions were the source of supply will be a new surface water diversion and community system permitted pursuant to NMSA 1978, § 72-5-1, 72-5-23 or 72-5-24, the subdivider shall submit a hydrologic report in accordance with subsection (e) of this section.

(3) For subdivisions where the source of supply will be an existing community or municipal water supply system permitted pursuant to NMSA 1978, § 72-12-1, the subdivider shall submit a water supply plan in accordance with subsection (f) of this section.

(4) For subdivisions where the source of water will be individual domestic wells, or shared wells permitted pursuant to NMSA 1978, § 72-12-1, the subdivider shall demonstrate a 50-year supply and shall submit a geohydrologic report in accordance with subsection (g) of this section.

(5) If the proposed amount of water required to fulfill the projected 50-year demand for indoor/outdoor domestic use is to be provided from an off-site source, the developer shall provide proof that the off-site source is secured.

(d) For new community wells and water systems, the subdivider shall submit a water supply plan and geohydrologic report which meets the following requirements:

(1) Geohydrologic reports shall demonstrate that groundwater sufficient to meet the maximum annual water requirement of the subdivision is physically available and can be practically

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recovered to sustain the development of a continuous period of 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 50 years.

(2) The subdivider shall drill sufficient exploratory wells within the boundaries of the proposed subdivision to adequately characterize the aquifer, unless the subdivider can demonstrate that existing wells in the area are representative of general aquifer conditions within the subdivision. Where existing wells are not adequate to demonstrate aquifer conditions, aquifer parameters required to demonstrate the availability of water should be obtained from aquifer tests, performed on site, which are adequate for predicting long-term water availability or from tests conducted on nearby wells. Alternately, tests can be conducted on nearby off-site wells if the subdivider can demonstrate that these wells are representative of general aquifer conditions within the subdivision.

(3) The assessment shall include a calculated 50-year schedule of effects on the proposed subdivisions production well(s) which may result from existing demands and from the increase of groundwater withdrawals for the subdivision. Analyses shall be performed to assess whether future water level declines will be within the limits of allowable drawdown in the subdivision production wells as provided in subsection (d)(4) of this section. Predicted drawdowns shall be calculated in a conservative manner (which estimates maximum drawdown). 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, 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 drawdown shall be reduced by a factor of 20 percent 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 may 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 drawdown equal to 70 percent of the initial water column.

(5) The geohydrologic report should present all hydrologic information pertinent to the study area including data available from past geohydrologic 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. Basic data for the immediate area of the subdivision must be current, with the date of collection noted and the location identified on a map. The report on the investigation should be in the format of a technical narrative; spreadsheets, tables, graphs, maps and cross sections shall be included.

(e) For new surface water diversions and community water systems using surface water the subdivider shall submit a hydrologic report which meets the following requirements:

(1) The hydrologic report shall demonstrate that surface water sufficient to meet the maximum annual water requirement of the subdivision is physically available.

(2) These analyses shall include the following:

a. Narrative and analytical demonstration that the surface water will be physically available 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,

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analyses of relevant historical runoff records, and projected 50-year water supply available for the subdivision requirements. Applicable legal or water rights constraints on water availability shall be considered.

b. If the analysis for 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.

c. If a supplemental groundwater supply is proposed, the subdivider shall prepare a geohydrologic assessment in accordance with subsection (d) of this section.

(f) 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 which meets the following requirements:

(1) For all water utilities.

a. Name of the utility proposed as the source of supply.

b. Letter of intent from the utility that they are ready, willing, and able to provide the maximum annual water requirements for the subdivision for at least 50 years. The letter must also state any requirement for the subdivider to provide water rights.

(2) For water utilities other than municipal owned water utilities.

a. 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.

b. For state public utilities commission (PUC) certificate utilities, a copy of the most recent annual report submitted to the PUC.

c. Plans for the existing water system to which the proposed system will tie into. 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.

d. Any other information, including any or all of the requirements of subsection (d) or (e) of this section, required by the board of county commissioners to make a determination that the utility has the capability to meet the water requirements of the proposed subdivision.

(g) For subdivisions where the source of water will be individual domestic wells, or shared wells, permitted under NMSA 1978, § 72-12-1, the subdivider shall submit a water supply plan and geohydrologic report which meets the following requirements:

(1) A geohydrologic report conforming to the requirements of subsection (d) of this section.

(2) The geohydrologic report shall also include a calculated 50-year schedule of off-site effects (drawdowns) and an evaluation of stream depletion effects (if applicable) which may result form the increase of groundwater withdrawals for the subdivision. These calculations shall include estimates of future water uses. The report shall identify by ownership and location all existing wells which will either go dry, experience dewatering of 50 percent of their water column or more, or experience an average annual rate of water decline of one foot or more as a consequence of the proposed subdivision's groundwater diversions. The report shall also identify by name and location all springs, streams, acequias (ditches), canals, and drains, the flows of which will be diminished by the proposed surface or groundwater diversions. All natural or manmade ponds, lakes, reservoirs, or wetlands that will be impacted shall also be identified.

(Ord. of 7-3-2003, § 8.6)

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Sec. 34-184. - Water availability assessment for type three containing less than six parcels and all type five subdivisions.

(a) If the source of water supply will be an existing community water system or a municipal water system, the subdivider shall submit a water availability assessment containing the following information:

(1) Name of the utility proposed as the source of supply.

(2) Letter of intent from the utility that they are ready, willing, and able to provide the maximum annual water requirements for the subdivision, if applicable.

(b) If the subdivider proposes that the source of water shall be individual domestic wells or shared wells to be approved by the state engineer pursuant to NMSA 1978, § 72-12-1, 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.

(4) Any additional information that is required by the county planning staff or board of county commissioners that will enable the county to determine whether or not the subdivider can fulfill the proposals contained in this disclosure statement.

(Ord. of 7-3-2003, § 8.7)

Sec. 34-185. - Terrain management plan.

(a) Any person seeking approval of a subdivision plat must address terrain management. No subdivision plat shall be approved unless terrain management has been reviewed by the county.

(b) A terrain management plan shall include a vicinity map showing the relationship of the site to its general surroundings, delineation of topographic contours, and the location of all existing drainage channels, watercourses, and surface water bodies or wetlands within three miles of the proposed subdivision. This map shall display the topographic contours at 20-foot intervals. A suitable example would be from a USGS topographic map.

(c) A terrain management plan shall include a natural features map for the lands within the subdivision. The natural features map shall include existing topographic contours with intervals of not less than two feet where the slope is less than eight percent and not more than five feet where the slope is eight percent or greater. The natural features map shall also indicate steep areas with slopes of 25 percent or greater, watercourses and floodways, major geologic features, and the types and distribution of vegetation.

(d) Prior to plat approval, the subdivider shall prove to the county that all lands to be developed are composed of soils suitable for the intended use. A soil survey map is recommended.

(1) Types one, two, and four subdivisions shall have soil suitable for at least the following uses:

a. Building foundation support;

b. Road fill;

c. Road location;

d. Underground utilities;

e. Water control structures;

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f. Erosion control structures.

(2) Types one, two, type three with six lots or more and type four subdivisions shall have soil suitable for, but not limited to:

a. Building foundation support;

b. Road fill;

c. Road location.

(3) Soils not suitable or having a high degree of hazard for the intended use shall not be developed for the intended use unless the subdivider or purchaser can prove to the county that the inherent soil limitations may be overcome by engineering design.

(4) Soil suitability will be ascertained from soil survey engineering interpretations and shall be based on national standards as set forth by the USDA Natural Resources Conservation Service.

(5) A description of the soil types. Detailed soil profiles may be required if deemed necessary by the reviewing soil and water conservation district.

(e) Grading plans will be subject to the following requirements:

(1) A series of maps, cross sections, and design profiles showing the location and impact of the planned development on the natural land form.

(2) 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.

(3) 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.

(4) 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 and display the planned action.

(5) The location of all areas where the natural elevation of the land will be changed by more than three feet.

(6) The location of all areas where the grading of land will disturb more than 1,000 contiguous square feet.

(7) Profiles showing the existing ground surface and proposed street grades and typical cross sections of the proposed grading.

(8) Description of methods of stabilization in areas of cut and fill, embankment compaction, and revegetation on steep slopes.

(f) Landscaping plan. The plan shall include a series of maps or overlays and narratives to identify those areas which will be revegetated following disturbance or to enhance the visual aesthetics of the site and the methods to be used:

(1) Location and type of materials to be used in revegetation 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) A description of the vegetative characteristics that will be present after revegetation.

(4) A plan for site preparation, fertilization, seeding rates, dates and amounts by species, mulching type and amount for grass, shrubs and trees. If watering is a planned part of the revegetation procedure, a description of the planned irrigation system and amounts of water needed shall be included.

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(g) 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; it should show the watercourses and topographic conditions as well as indicate the soil and vegetative types and their locations within the watershed.

(2) Storm drainage computations for the 100-year frequency storm both reaching and leaving the site in the pre-development conditions.

(3) Storm drainage calculations for the post development estimates of runoff after planned full development of the site. This will be displayed to show 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 the watercourses. Calculations will be provided for 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 location and size of all drainage easements for all floodplains, floodways, flood fringes, and other natural watercourses 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 groundwater in all areas where the seasonal high water table is within 20 feet of the ground surface.

(8) All appropriate design details necessary to clearly explain the construction of all surface and subsurface structures.

(9) The developer shall ensure that the runoff created in the post-development condition is contained in either on-site ponds for each lot, on-site ponds for the entire subdivision or roadway ponds, or the developer may direct the new runoff into established drainageways, provided the added runoff does not adversely impact downstream property owners and that the runoff is added to the drainageway at the same rate and volume as the pre-development flow.

(h) 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, recreation structures, and other community facilities and improvements.

(i) Soils having severe limitations, or which are shown as unsuitable, for the intended purposes should not be used for the purpose unless the developer has clearly shown in the terrain management plan how these limitations will be overcome. Below are the major categories of land use to be used in reviewing the terrain management plan of a subdivision. Information about any of these categories which are pertinent to the development proposal should be included in the terrain management plan:

(1) Building site development.

(2) Construction materials.

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(3) Local roads and streets.

(4) Underground utilities.

(5) Water control structures.

(6) Erosion control structures.

(7) Playgrounds.

(8) Paths and trails.

(9) Sewage disposal.

(j) Floodplain management. All subdivisions shall conform to the requirements of the county flood damage prevention ordinance, found in chapter 18 of this Code.

(k) Storm drainage plan.

(1) 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.

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. Ensure 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. Ensure 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. Ensure that road construction ensures proper drainage conditions by:

1. Water ponding areas as a result of road construction should be avoided unless plans are developed that will adequately address the conditions.

2. Roads planned to be used in collecting or disposing of runoff should be designed to ensure adequate control of the flows that prevent erosion and sedimentation.

3. Road drain outlets into an existing drainage course should be designed to prevent erosion in the drainage course.

4. Road culverts should be properly sized and located and of adequate length and described in the plan.

5. Road culvert inlets and outlets should be adequately protected.

(2) All storm drainage systems shall be constructed in accordance with the standards of the local district as deemed necessary for the site conditions of that proposed subdivision. If the drainage basin wherein the subdivision is located is only partially developed, the local district shall require that the design and the construction of the drainage system have sufficient inlet flow capabilities to adequately serve the entire drainage basin. This is based on the assumption the entire basin will be developed.

(3) Development of an area is almost certain to cause an increase in runoff and sediment. The possible adverse effects of such increase should be analyzed. Special consideration should be given to the existing or planned bridge, culvert and road crossing sizes and the stability and

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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 watercourses may start to degrade when exposed to larger, more frequent or longer flows that may result from development.

(4) Diversion, debris basins, retaining walls, terraces, berms and vegetative means should 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 sediment.

(5) Regarding and shaping of large natural channels usually increases the channel velocity which results in increased erosion unless measures are taken to slow velocities and protect the banks.

(6) Excavated and filled slopes should generally be 3:1 or flatter.

(Ord. of 7-3-2003, § 8.8)

Sec. 34-186. - Fire protection.

(a) *General requirements.* For all subdivisions containing six or more lots, the subdivider shall provide water for firefighting with facilities for storage and distribution before construction within the subdivision begins. The county fire marshal may approve single point water sources for smaller subdivisions when the source is within 1,000 feet of all structures. The county fire marshal may waive the requirements of subsection (b) of this section when all buildings in the subdivision are required to be fully sprinklered and/or the subdivision is located in an area that has a tanker shuttle in operation that is approved by the insurance service office (ISO) and that meets the required fire flows.

(b) *Standards.*

(1) The subdivider's fire protection plan shall conform to the guidelines provided by the National Fire Protection Association's NFPA 1142, Standard on Water Supplies for Suburban and Rural Fire Fighting. All hydrants, mains, and distribution lines shall meet the requirements of NFPA 24, Standard for the Installation of Private Fire Service Mains and Their Appurtenances.

(2) The requirements for stored firefighting water are based on fire flows of less than 2,500 gpm (gallons per minute) and for a two-hour duration. Flows of 2,500 gpm and greater are for longer durations. All flows are required to be produced with a minimum of 20 pounds residual pressure. Where water for domestic use is stored in the same tank, fire protection water shall be in excess of the daily peak demand.

(3) Minimum requirements.

a. Subdivisions containing between six and 25 lots will require 30,000 gallons storage of water for fire protection or the required minimum as specified in NFPA 1142, whichever is more stringent.

b. Subdivisions containing between 26 and 50 lots will require 40,000 gallons storage of water for fire protection or the required minimum as specified in NFPA 1142, whichever is more stringent.

c. Subdivisions containing between 51 and 100 lots will require 60,000 gallons storage of water for fire protection or the required minimum as specified in NFPA 1142, whichever is more stringent.

d. Subdivisions containing more than 100 lots will require 100,000 gallons storage of water for fire protection or the required minimum as specified in NFPA 1142, whichever is more stringent.

(c) *Fire protection plan.*

(1) A fire protection plan shall be a condition of preliminary plat approval for all subdivisions.

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(2) For all subdivisions with fire protection, the subdivider shall submit a plat of the proposed subdivision, preliminary plans of the proposed water supply, storage and distribution system, and calculations demonstrating that the proposed fire protection facilities will meet the requirements of these guidelines, prepared by or under the supervision of a registered professional engineer.

(3) For all subdivisions to be supplied by existing utilities, the letter of intent from the utility to provide water shall specify fire flows and pressures which will be provided and fire flow storage which may be apportioned to the subdivision.

(Ord. of 7-3-2003, § 8.9)

Sec. 34-187. - Traffic impact analysis.

(a) A traffic impact analysis (TIA) is required for the following:

(1) All subdivisions that generate more than 125 vehicles per day. This means a typical subdivision of six or more lots will need a TIA if it accesses directly to a state route or a county-maintained road.

(2) Cluster developments with 25 or more dwelling units on a single parcel (apartments, mobile home parks).

(3) All commercial or industrial developments abutting and/or accessing a state route or a county maintained road.

(b) The following components shall be required in a TIA:

(1) Introduction and summary.

a. Purpose and objectives of the report.

b. Site location and study area.

c. Brief description of development.

d. Principle findings and/or conclusion.

e. Recommendations proposed as part of the development for on-site and off-site improvements.

(2) Proposed development.

a. Proposed land use and intensity of development.

b. Location and site plan.

c. Phasing and timing of development.

(3) Area conditions.

a. Description of study area.

b. Existing site access and surrounding road system.

c. Future road improvements programmed for the area.

d. Current traffic volumes in the area.

e. Current engineering needs for local development or remediation.

(4) Projected traffic.

a. Site trip generation and distribution (specify horizon year).

b. Estimated off-site traffic (specify horizon year).

(5) Traffic analysis.

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a. Site access and traffic control.

b. Off-site roadways and intersections (build and no build).

c. Site circulation.

(c) Any access to a state highway or county road from a subdivision needs to be able to accommodate appropriate emergency vehicles.

(d) In all instances, whether a traffic impact study is submitted or not, the county is concerned about the safety and efficiency of the access points onto the county or state routes. The driveway regulations provide further details for state highway access.

(e) Any subdivision development request that affects state access controlled routes must be submitted to the department's access control review committee and the appropriate district.

(Ord. of 7-3-2003, § 8.10)

Sec. 34-188. - Water quality documentation.

(a) For a subdivider to document conformance with the water quality requirements of these regulations and the New Mexico Subdivision Act, a water quality documentation package shall accompany the preliminary plat submittal for subdivisions that contain six or more lots, except for type five subdivisions.

(b) The water quality documentation package shall:

(1) State the subdivider's name and mailing address;

(2) State the date the package was completed;

(3) State the subdivider's proposal for meeting the water quality requirements of these regulations;

(4) Be accompanied by a copy of the subdivider's disclosure statement on water quality;

(5) Be accompanied by the information listed in subsection (c), (d) or (e) of this section as applicable to the water supply proposal; and

(6) Be accompanied by other relevant information as may be necessary for the determination of compliance with the water quality requirements of these regulations.

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

(1) A water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, lead, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;

(2) For areas where contamination of the proposed source, water has been documented, a water quality analysis of a representative water sample for other water quality parameters listed in these regulations as may be required;

(3) The location and description of the source of water sampled for the water quality analysis;

(4) An engineer's report and preliminary plans for the proposed public water supply system; and

(5) Maps identifying and showing the location of all potential sources of contamination and the flood plan of all watercourses and surface bodies of water within 1,000 feet of the proposed water supply system source.

(d) If a connection to an extension of an existing water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:

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(1) A water quality analysis of a representative water sample for alkalinity, aluminum, calcium, chloride, color, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;

(2) A statement of availability of water service signed by an official of the existing of the public water supply system; and

(3) An engineers report and preliminary plans for the proposed water system.

(e) If private water supply systems are proposed, the following information shall be submitted as part of the water quality documentation package:

(1) A water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, lead, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;

(2) For areas where contamination of the proposed source, water has been documented, a water quality analysis of a representative water sample for other water quality parameters listed in these regulations as may be required;

(3) The location and description of the source of water sampled for the water quality analysis;

(4) Preliminary plans for the private water supply systems, if the system will serve more than one connection; and

(5) Maps identifying and showing the location of all potential sources of contamination and the flood plan of all watercourses and surface bodies of water within 500 feet of the proposed water supply system source.

(f) Documentation of approval of the construction or modification of a public water supply system from the state environment department will be required for final plat approval.

(Ord. of 7-3-2003, § 8.11)

Sec. 34-189. - Water quality requirements.

(a) Conformance with the water quality requirements of this section is required for preliminary plat approval.

(1) The level of a contaminant in water which is delivered to any user of a public or private water supply system shall not exceed the maximum contaminant level (MCL) for any of the contaminants listed in table 34-189(1).

(2) The level of a contaminant in water which is delivered to any user of a public or private water supply system should not exceed the secondary maximum contaminant level (SMCL) for any of the contaminants listed in table 34-189(2).

(3) If the level for any of the contaminants listed in Table 34-189(2) exceeds the SMCL, the subdivider must state in the disclosure statement on water quality the name of the contaminant exceeded; the contaminant level; the SMCL of the contaminant; the expected adverse effects of the contaminant for domestic water use; and the recommended treatment method to reduce the contaminant level to or below the SMCL.

(4) A water supply source shall not be located at less than the setback distances shown in table 34-189(3).

(5) The disclosure statement for the subdivision shall contain a statement describing the quality of water available for domestic use within the subdivision.

Table 34-189(1)
Primary (Health-Related) Contaminants

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Contaminant	MCL
Inorganic (IOC)	
Antimony	0.006 mg/l
Arsenic	0.05 mg/l
Asbestos	7 MFL
Barium	2 mg/l
Beryllium	0.004 mg/l
Cadmium	0.005 mg/l
Chromium (total)	0.1 mg/l
Copper	1.3 mg/l
Cyanide	0.2 mg/l
Fluoride	4.0 mg/l
Lead	0.015 mg/l
Mercury (inorganic)	0.002 mg/l
Nickel	0.1 mg/l
Nitrate (as N)	10 mg/l
Nitrite (as N)	1 mg/l
Nitrate+Nitrite (both as N)	10 mg/l
Selenium	0.05 mg/l
Thallium	0.002 mg/l

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Radionuclide	cis-1, 2-dichloroethylene
Contaminant	MCL
Gross a particle activity (b)	15 pCi/l
Radium-226 & -228	5pCi/l
Strontium-90	8 pCi/l
Tritium	20000 pCi/l
Microbiology	
Giardia lamblia	TT
Legionella	TT
Standard plate count	TT
Total coliforms	Absent
Turbidity	PS
Viruses	TT
Disinfection Byproduct	
Contaminant	MCL
Total trihalomethanes	0.10 mg/l
Volatile Organic (VOC)	
Benzene	0.005 mg/l
Carbon tectrachloride	0.005 mg/l
Dibromochloropropane	0.002 mg/l

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o-dichlorobenzene	0.6 mg/l
p-dichlorobenzene	0.075 mg/l
1, 2-dichloroethane	0.005 mg/l
1,1-dichloroethylene	0.007 mg/l
	0.07 mg/l
trans-1, 2-dichloroethylene	0.1 mg/l
Dichloromethane	0.005 mg/l
1,2-dichloropropane	0.005 mg/l
Ethylbenzene	Ethylbenzene
Ethylene dibromide	0.00005 mg/l
Monochlorobenzene	0.1 mg/l
Styrene	0.1 mg/l
Tetrachloroethylene	0.005 mg/l
Toluene	1 mg/l
1, 2, 4-trichlorobenzene	0.07 mg/l
1, 1, 1-trichloroethane	0.2 mg/l
1, 1, 2-trichlorocthane	0.005 mg/l
Trichioroethylene	0.005 mg/l
Vinyl chloride	0.002 mg/l
Xylenes (total)	10 mg/l

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Synthetic Organic (SOC)	
Alachlor	0.002 mg/l
Atrazine	0.003 mg/l
Benzo[a]pyrene	0.0002 mg/l
Carbofuran	0.04 mg/l
Chlorodane	0.002 mg/l
2, 4-D	0.07 mg/l
Dalapon	0.2 mg/l
Di(2-ethylhexyl)adipate	0.4 mg/l
Di(2-ethylhexyl)phthalate	0.006 mg/l
Dinoseb	0.007 mg/l
Diquat	0.02 mg/l
Endothall	0.1 mg/l
Endrin	0.002 mg/l
Glyphosate	0.7 mg/l
Heptachlor	0.0004 mg/l
Heptachlor epoxide	0.0002 mg/l
Hexachlororbenzene	0.001 mg/l
Hexachlorocyclopentadiene	0.05 mg/l
Lindane	0.002 mg/l

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Methoxychlor	0.04 mg/l
Oxamyl (Vydate)	0.2 mg/l
Pentachlorophenol	0.001 mg/l
Picloram	0.5 mg/l
Polychlorinated byphenyls	0.0005 mg/l
Simazine	0.004 mg/l
2, 3 8-TCCD (Dioxin)	3 × 10 mg/l
Toxaphene	0.003 mg/l
2, 4, 5-TP	0.05 mg/l

;sz=9.5q;Notes to table 34-189(1):

;sz=9.5q;(a) Million Fibers longer than 10 um per Liter.

;sz=9.5q;(b) Gross alpha particle activity including radium - 226, but excluding radon and uranium.

;sz=9.5q;(c) Combined radium -226 and radium -228.

;sz=9.5q;d) For systems using surface water.

;sz=9.5q;(e) Treatment technique (filtration and disinfection) required.

;sz=9.5q;(f) Performance Standard 0.5 NTU to 1.0 NTU.

Table 34-189(2)
Secondary (Esthetic-Related) Contaminants

Contaminant	SMCL
Aluminum	0.05 to 0.2 mg/l
Chloride	250 mg/l
Color	15 CU

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Copper	1.0 mg/l
Corrosivity	Non-corrosive
Fluoride	2.0 mg/l
Foaming agents	0.5 mg/l
Hardness	250 mg/l
Iron	0.3 mg/l
Manganese	0.05 mg/l
Odor	3 TON
pH	6.5 to 8.5
Silver	0.1 mg/l
Sodium	100 mg/l
Sulfate	250 mg/l
TDS	500 mg/l
Turbidity	5 NTU
Zinc	5 mg/l

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;sz=9.5q;Notes to table 34-189(2):

;sz=9.5q;Sodium concentration exceeding 20 mg/l must be noted in the disclosure statement.

Table 34-189(3)
Setback Distances for Water Supply Sources

	Required minimum setback distance

	(feet)	
Potential Source of Contamination	Public Water Supply System Source	Private Water Supply System Source
Watertight sewers	50	25
Other sewers	100	50
Community liquid waste treatment system	300	150
Individual liquid waste treatment system	100	50
Community liquid waste disposal system	100	300
Individual liquid waste disposal system	600	100
Floodplain	Outside	Outside

(b) The water quality standards in subsection (a) of this section are the applicable standards for the county.

(Ord. of 7-3-2003, § 8.12)

Sec. 34-190. - Liquid waste disposal documentation.

For a subdivider to document conformance with the liquid waste disposal requirements of these regulations and the New Mexico Subdivision Act, a liquid waste disposal documentation package shall accompany the preliminary plat submittal.

(1) The liquid waste disposal documentation package shall:

a. State the subdivider's name and mailing address;

b. State the date the package was completed;

c. State the subdivider's proposal for meeting the liquid waste disposal requirements of these regulations;

d. Be accompanied by a copy of the subdivider's disclosure statement on liquid waste disposal;

e. Be accompanied by the information required in subsection (2), (3) or (4) of this section as applicable to the subdivider's liquid waste disposal proposal; and

f. Be accompanied by other relevant information as may be necessary for determination of compliance with the liquid waste disposal requirements of these Regulations.

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(2) 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:

a. An engineer's report and preliminary plans for the proposed community liquid waste system;

b. Maps showing the location of all water supply sources and the floodplain of all watercourses and surface bodies of water within 1,000 feet of the proposed liquid waste treatment and liquid waste disposal site; and

c. Documentation of the filing of a notice of intent to discharge with the state environment department in accordance with the state groundwater and surface water quality protection regulations (20 NMAC 6.2).

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

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

b. An engineer's report and preliminary plans for the proposed extension to the existing liquid waste system.

(4) If the subdivider proposes individual liquid waste systems, the following information shall be submitted as part of the liquid waste disposal documentation package:

a. A soils investigation report (soil survey, soil borings to a minimum depth of eight feet, soil test results and analysis of the soil survey, soil boring, and soil tests) defining soil depth to bedrock, seasonal high-water groundwater table or other limiting soil layer, and percolation rate for the soils present within the proposed subdivision;

b. Maps showing the location of all water supply sources and the floodplain of all watercourses and surface bodies of water within the proposed subdivision and within 500 feet of the proposed subdivision boundaries;

c. A liquid waste system feasibility map, superimposed on the subdivision plat, delimiting the areas of suitable, limited, and prohibitive soil categories as described in table 34-190(1); and

d. Preliminary plans for the individual liquid waste systems if a system will serve more than one connection.

(5) Documentation of approval for the discharge from a community liquid waste system from the state environment department will be required for final plat approval.

Table 34-190(1)
Soil Category for Individual Liquid Waste Systems

Soil Characteristic	Soil Category		
	Suitable	Limiting	Prohibitive
Percolation rate (minutes per inch)	5—60	Less than 5 or 61—120	More than 120
Slope (percent)	0—8	9—15	More than 15

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Soil depth to seasonal high groundwater table or bedrock or other limiting soil layer (feet)	8 or more	4—8	Less than 4
Floodplain	Outside	Outside	Within

;sz=9.5q;Notes to table 34-190(1):

;sz=9.5q;(a) A soil category is determined by the most limiting soil characteristic.

;sz=9.5q;(b) A suitable soil is a soil suited for the installation and functioning of a conventional disposal system. Conventional disposal systems or alternative disposal systems may be used in suitable soils.

;sz=9.5q;(c) A limiting soil is a soil unsuited for the installation and functioning of a conventional disposal system. Alternative disposal systems are used in limiting soils.

;sz=9.5q;(d) A prohibitive soil is a soil unsuited for the installation and functioning of either a conventional disposal system or an alternative disposal system. Individual waste systems cannot be used in prohibitive soils.

Table 34-190(2)
Setback Distances for Individual Liquid Waste Systems

	Required Minimum Setback Distance (feet)	
Object	Treatment Unit	Disposal
Individual water supply system source	50	100
Public water supply system source	100	200
Edge of watercourses except canals and arroyos	50	100
Edge of unlined canals and arroyos	15 + depth of channel	25 + depth of channel
Edge of lined canals	10 + depth of channel	10 + depth of channel
Public lakes	50	100

;sz=9.5q;Notes to table 34-190(2):

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;sz=9.5q;(a) Setback distance to artificially controlled lakes and reservoirs is measured from the closest projected shoreline at the maximum controlled water level.

;sz=9.5q;1. A community liquid waste system shall be permitted, designed, and constructed, by the time of the first occupancy within the subdivision, to comply with the state groundwater and surface water quality protection regulations (20 NMAC 6.2) and, operated; maintained, and expanded as necessary to ensure that the system will comply with the state liquid waste disposal regulations (20 NMAC 6.2).

;sz=9.5q;2. The subdivider shall disclose and covenant that all lots within the subdivision must connect to the community liquid waste system at the time of occupancy.

(Ord. of 7-3-2003, § 8.13)

Sec. 34-191. - Liquid waste disposal requirements.

(a) Conformance with the liquid waste disposal requirements of this section is required for preliminary plat approval.

(1) Community liquid waste systems.

a. A community liquid waste system shall be permitted, designed, and constructed, by the time of the first occupancy within the subdivision, to comply with the state groundwater and surface water quality protection regulations (20 NMAC 6.2) and, operated, maintained, and expanded as necessary to ensure that the system will comply with the state liquid waste disposal regulations (20 NMAC 6.2).

b. The subdivider shall disclose and covenant that all lots within the subdivision must connect to the community liquid waste system at the time of occupancy.

(2) Individual liquid waste systems.

a. Individual liquid waste systems shall be located, installed, operated, and maintained in a manner which will not cause a hazard to public health or degrade any body of water.

b. Individual liquid waste systems shall not be installed where an existing community liquid waste system is available for use within the subdivision; installed in subdivisions or on lots with sizes less than required by county planning and zoning ordinances, and the state groundwater and surface water quality protection regulations (20 NMAC 7.3.) installed in prohibitive soils as shown in table 34-190(1); installed at less than the setback distances shown in table 34-190(2); or privies (outhouses) or holding tanks if a water supply system is to be used.

c. The subdivider shall disclose and covenant that the lots can not be further divided or subdivided to lot sizes smaller than those approved for the subdivision.

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

(Ord. of 7-3-2003, § 8.14)

Sec. 34-192. - Solid waste disposal documentation.

The subdivider shall document conformance with the solid waste disposal requirements of these regulations and the New Mexico Subdivision Act, a solid waste disposal documentation package shall accompany the preliminary plat submittal.

(1) A solid waste documentation package shall:

a. State the subdivider's name and mailing address;

b. State the date the package was completed;

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c. State the subdivider's proposal for meeting the solid waste disposal requirements of these regulations;

d. Be accompanied by a copy of the subdivider's disclosure statement on solid waste disposal;

e. Be accompanied by the information required in subsections (1)b and c of this section as applicable to the subdivider's solid waste disposal proposal; and

f. Be accompanied by other relevant information as may be necessary for determination of compliance with the solid waste disposal requirements of these regulations.

(2) 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:

a. A statement of availability of solid waste collection and disposal service signed by an official of the solid waste collection service;

b. The name, location and owner or operator of the solid waste disposal site used by the collection service.

(3) If the subdivider proposes solid waste disposal by use of an existing solid waste disposal site, the following information shall be submitted as part of the solid waste disposal documentation package:

a. A statement of availability of solid waste disposal service signed by an official of the disposal site;

b. The travel distance from the center of the subdivision to the disposal site.

(Ord. of 7-3-2003, § 8.15)

Sec. 34-193. - Solid waste disposal requirements.

Conformance with the solid waste disposal requirements of this section is required for preliminary plat approval.

(1) At the time of first occupancy of the subdivision, the subdivider shall provide for:

a. Disposal of solid wastes at an approved solid waste disposal facility; and

b. An approved solid waste collection system to collect and transport solid wastes to a disposal facility.

(2) At the time 50 percent of the lots of the subdivision are occupied, the subdivider shall provide for an approved solid waste collection system to collect and transport solid wastes to the disposal facility.

(3) The solid waste disposal requirements of this section may be waived for type four or type five subdivisions if the subdivider discloses and covenants that:

a. The lots will not be divided or subdivided to less than ten acres;

b. The lots will be restricted to seasonal (part-time) occupancy;

c. On-lot solid waste disposal will be limited to solid waste generated on the lot by the lot owner; and

d. On-lot solid waste disposal will be done in a manner that does not create a nuisance, create a hazard to public health, or degrade a body of water.

(4) The disclosure statement for the subdivision shall contain a description of the means of solid waste disposal for the subdivision.

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(Ord. of 7-3-2003, § 8.16)

Sec. 34-194. - Road standards; access; road location; arrangements.

Each lot within a proposed subdivision shall have frontage on and direct access to a roadway and, if such roadway is not improved to the satisfaction of the county, it shall be so improved. Roads shall be suitably located, of sufficient width, and adequately improved to accommodate prospective traffic, and to afford satisfactory access to police, firefighting and other emergency vehicles and shall be coordinated so as to compose a convenient system.

(1) *Basic policies.*

a. *Character.* The character, extent, width, and location of all roads shall conform to the policies of the county and shall be consistent and appropriate in their relationship to existing and planned roads, topographic conditions, public convenience, safety, and the proposed uses of the land to be served by such roads.

b. *Continuation.* The arrangement of roads in new subdivisions shall make provisions for the direct continuation of the existing roadway network if deemed appropriate by the county engineer. The county engineer and/or public works director shall, prior to construction, approve any roads connecting to an existing county road. All roads connecting to existing dedicated county roads will match existing grade. No road grade or elevation may be changed without approval of the county engineer and/or public works director.

c. *Provision for future subdivision.* Where a tract is subdivided into lots substantially larger than the minimum size required in the zone in which a subdivision is located, the county may require that roads and lots be laid out so as to permit future subdivision in accordance with the requirements contained in this section.

d. *General construction standards.* No new road shall be constructed as to impair drainage from existing dedicated county roads. Any road connecting to a county-dedicated road shall include a drive pad at a grade and length so as to allow a vehicle to stop before entering a county-dedicated road, as required by the county engineer and/or public works director. New culverts shall be placed no less than three feet from the road shoulder and shall match the construction plans submitted with the subdivision.

(2) *Engineering criteria.* The proposed road layout within a subdivision shall meet applicable engineering standards, including horizontal alignment, corner property line configuration, and cul-de-sac configuration.

a. *Cul-de-sacs, deadends.* Whenever a road that serves more than two lots is stub-ended so that it will not at that end open into another road, an adequate turn around conforming to one of the alternatives pictured in figure 34-194 shall be provided.

b. *Turning radii.* All corners shall have a minimum radii of 12 feet and 24 feet at corners considered to be important to the transportation network.

c. *Corners.* At important intersections and at all acute corners the property corner shall be rounded. Comparable cutoffs or chords in place of round corners may be permitted, subject to approval by the county engineer.

d. *Surfacing.* All roads within subdivisions shall either be paved or surfaced with gravel and such paving or surfacing shall be of a type and strength suitable for the volume and character of traffic to be expected as determined by the county engineer and/or public works director. The type and width of surfacing required on both public and private roads will be determined by the county engineer and/or public works director.

e. *Water diversions.* Any diversions of water due to construction activity shall conform to the applicable sections of section 404 of the federal Clean Water Act (33 USC 1344).

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(3) *Public road standards.* The minimum right-of-way for any public road shall be 50 feet and standards for construction shall conform to the current county street specification ordinance or more stringent standard if deemed appropriate by the county engineer and/or public works director.

(4) *Private road standards.* Private roads to provide access to subdivision lots may be created where such roads can adequately serve all identified transportation, utility, and stormwater handling requirements. Private roads shall be subject to the following conditions:

a. Private roads may be platted only where the county determines that they will always clearly function as local roads.

b. A private road may be platted at a narrower width than a public road to the extent appropriate to its function. However, a private road that provides access to the main body of three to eight lots that do not abut a public right-of-way may not be platted at a width narrower than 24 feet. A private road serving no more than two lots may not be platted at a width narrower than 20 feet. Private roads serving more than eight lots shall meet the same standards as for public roads.

c. The county, based upon advice from the county engineer, may require private roads to include public or private utility easements, including easements for stormwater drainage.

d. If a private road is approved, it shall be clearly identified as such on the subdivision plat. Private roads must be sufficiently maintained as to allow access to all lots by emergency vehicles. Provisions for future maintenance must be clearly identified in the disclosure statement of the subdivision.

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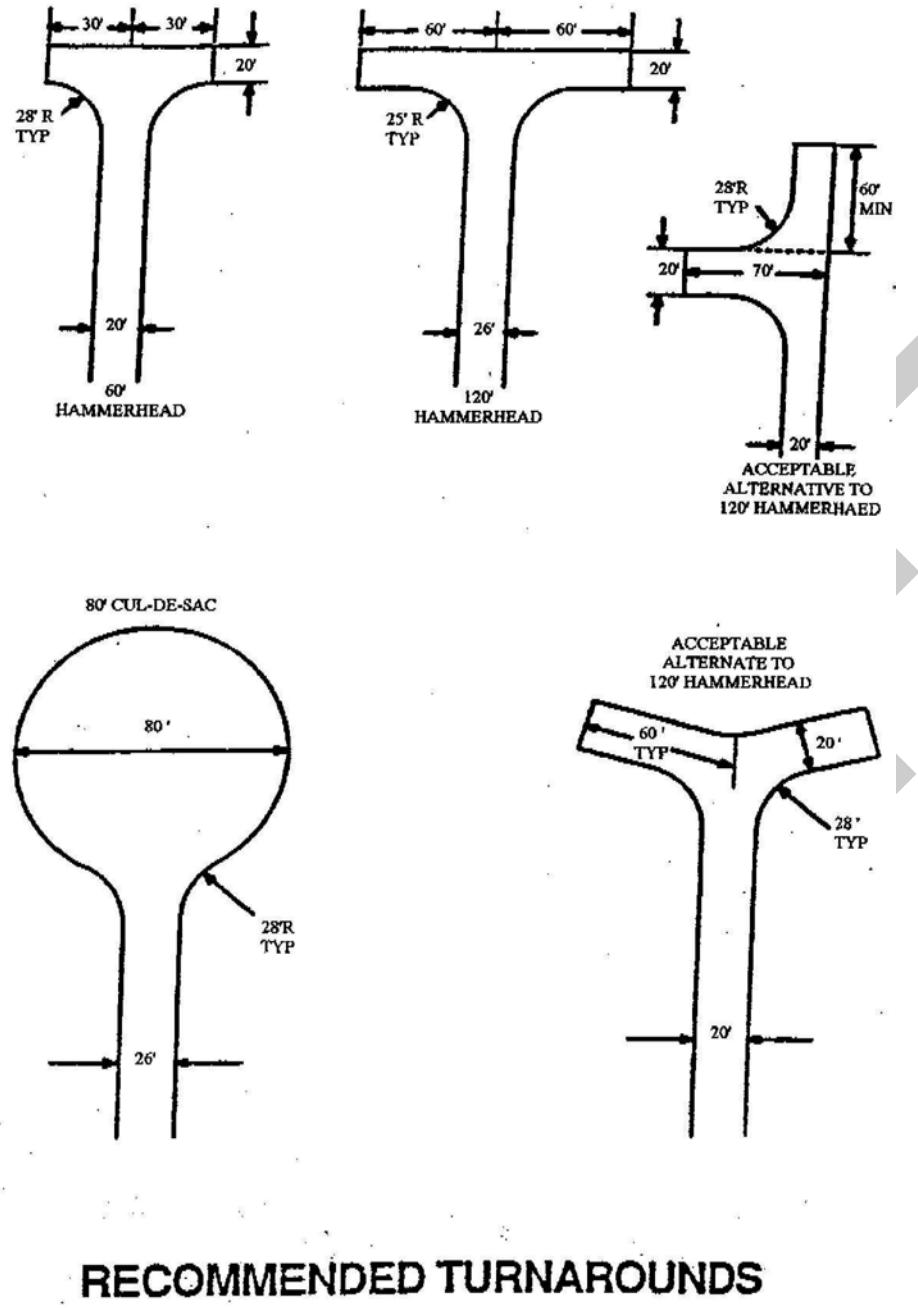

RECOMMENDED TURNAROUNDS

Figure 34-194

(Ord. of 7-3-2003, § 8.17)

Secs. 34-195—34-211. - Reserved.

ARTICLE VIII. - FINAL PLAT REVIEW PROCESS

Sec. 34-212. - Final plat submittal.

Sec. 34-213. - Decision on final plat.

Sec. 34-214. - Final plat data requirements.

Sec. 34-215. - Advertising standards.

Sec. 34-216. - Requirements prior to sale, lease or other conveyance.

Sec. 34-217. - Recording parcels.

Secs. 34-218—34-242. - Reserved.

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Sec. 34-212. - Final plat submittal.

(a) *Conformity.* Following conditional approval of a preliminary plat, the subdivider shall prepare a final plat in substantial conformity to the requirements of the conditionally approved preliminary plat. Following approval of a preliminary plat and before the expiration of the plat, the subdivider shall prepare a final plat which conforms 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. The applicant must name all of the proposed streets within the subdivision in accordance with the requirements of the county addressing ordinance, found in chapter 32, article III, and make arrangements to supply the county with the required number of signs for the entire subdivision. Prior to the approval of the final plat, the county addresser will establish addresses for all new lots within the subdivision in accordance with applicable county regulations and policies.

(b) *Application; fees.* A subdivider shall prepare a final plat and supporting documentation in accordance with the requirements provided in these regulations. Final plat submittal is initiated by completing an application on the prescribed form available from the county planning staff, and upon payment of the required administrative fees.

(c) *Plat deemed complete.* A subdivider shall prepare a final plat and supporting documentation in accordance with the requirements provided in these regulations. Final plat submittal is initiated by completing an application on the prescribed form available from the county planning staff, 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 30 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 30 days to correct the deficiencies and return the final plat for consideration.

(Ord. of 7-3-2003, § 9.1)

Sec. 34-213. - Decision on final plat.

(a) *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 30 days after the date the final plat is deemed complete.

(b) *Denial.* The board of county commissioners shall not deny a final plat if the board has previously approved a preliminary plat for the proposed subdivision and it finds that the final plat is in compliance with the previously approved preliminary plat. Denial of a final plat shall be accompanied by findings identifying the requirements that have not been met.

(c) *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.

(d) *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 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.

(Ord. of 7-3-2003, § 9.2)

Sec. 34-214. - Final plat data requirements.

(a) *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 200 feet to one inch or larger and printed on sheets no larger than 24 by 32 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 two paper copies of the final plat map and accompanying information.

(b) *Map specifications.* The final plat map shall be prepared in accordance with the applicable specifications of appendix C to this chapter.

(c) *Affidavit.* The final plat shall contain a statement that the land being subdivided is subdivided in accordance with the final plat. The final plat shall be acknowledged by the owner 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.

(d) *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. Acceptance for public use of a roadway does not constituted acceptance of maintenance for that roadway. On full conformity with county road construction standards, the roads may 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.

(e) *Filing requirements.* The board of county commissioners has determined that the filing of all required material shall be done with the planning department of the county in lieu of filing with the board of county commissioners.

(f) *Disclosure statement.* For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format provided in these regulations. The disclosure statement shall be signed by the board of county commission chairperson and a designated representative of the county planning staff and attested to by the county clerk at the time when the final plat is approved and signed. The disclosure statement shall be filed with the planning department and the state attorney general's office. It is unlawful to sell, lease, or otherwise convey land in a subdivision until the required disclosure statement has been signed by the requisite county officials and filed with the county clerk, planning department, and the attorney general's office; and until the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement. The disclosure statement shall be in English and may be in Spanish if required by the board of county commissioners. For all subdivisions within the county, where the proposed water supply for the subdivision will be other than domestic or shared wells to be approved by the state engineer pursuant to NMSA 1978, § 72-12-1; proof of a valid water right permit issued to the subdivider or to an existing community water system or municipal water system sufficient in quantity to meet the maximum annual water requirement of the proposed subdivision and specifically

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authorized for this purpose, shall be provided by the subdivider as a condition of approval of the final subdivision plat.

(g) *Amendments to disclosure statement.* Any subsequent amendments to the disclosure statement must be signed and attested to by the appropriate county officials as required in subsection (f) of this section prior to the recording of said amendments in the office of the county clerk.

(h) *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 this chapter.

(i) *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.

(j) *Environment department approval.* For any subdivision requiring construction of a public water supply system or a community liquid waste system, documentation of approval from the state environment department shall be required for final plat approval.

(k) *Recording.* The final plat is in full force and effect only after having been recorded in the office of the county clerk within one year after the date of approval by the board of county commissioners.

(Ord. of 7-3-2003, § 9.3)

Sec. 34-215. - Advertising standards.

(a) *Filing requirements.* Copies of all brochures, publications, and advertising relating to subdivided land shall be filed with the planning department and the attorney general within 15 days after initial use by the subdivider.

(b) *Requirements; restrictions.* Brochures, disclosure statements, publications, and advertising of any form relating to subdivided land shall:

(1) Not misrepresent or contain false or misleading statements of fact;

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

(3) Not describe parcels available for "closing costs only" or similar terms unless all such costs are accurately and completely itemized; or when additional parcels must be purchased at a higher price;

(4) Not include an asterisk or other reference symbol as a means of contradicting or substantially changing any statement;

(5) 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;

(6) 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;

(7) Not contain references to any facilities, points of interest or municipalities located outside the subdivision unless the distances from the subdivision are stated in the advertisement in actual road miles; and

(8) Refer to the location where the subdivider's disclosure statement may be obtained.

(Ord. of 7-3-2003, § 9.4)

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Sec. 34-216. - 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:

(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.

(2) *Relevant documents.* The subdivider shall furnish the board of county commissioners a sample copy of sales contracts, leases and any other documents which will be used to convey an interest in the subdivided land.

(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 shall be placed beside one corner of each parcel.

(Ord. of 7-3-2003, § 9.5)

Sec. 34-217. - Recording parcels.

(a) *Authority.* NMSA 1978, § 47-6-9(A)(17) 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.

(b) *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.

(c) *Requirement.* Any person who sells, leases for an initial term plus option terms in excess of five 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, notice of lease, notice of real estate contract, or other document of conveyance with the county clerk no later than five days after the closing or 30 days after the date on which the document is signed, whichever comes first.

(d) *Form and certification.* Any deed, lease for an initial term plus option terms in excess of five years, real estate contract, notice of lease, notice of 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 NMSA 1978, § 14-8-4.

(e) *Plat attachment.* The deed, lease, real estate contract, notice of lease, notice of 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.

(Ord. of 7-3-2003, § 9.6)

Secs. 34-218—34-242. - Reserved.

ARTICLE IX. - SPECIAL PROCEDURES

Sec. 34-243. - Succeeding subdivisions standards.

Sec. 34-244. - Resubdivision.

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Sec. 34-245. - Vacation of plats.

Sec. 34-246. - Variances.

Sec. 34-247. - Protection of cultural properties, archaeological sites, and unmarked burials.

Secs. 34-248—34-272. - Reserved.

Sec. 34-243. - Succeeding subdivisions standards.

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:

(1) A part of a previous subdivision that has been created in the preceding seven-year period; or

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

(Ord. of 7-3-2003, § 10.1)

Sec. 34-244. - Resubdivision.

(a) *Definitions.* The term "resubdivision" means and includes any change to a lot line, right-of-way line, or utility easement which results in more lots or lots of a smaller size, unless the change is the result of a vacation of plats or a variance granted by action of the board of county commissioners.

(b) *Procedure.* 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.

(Ord. of 7-3-2003, § 10.2)

Sec. 34-245. - Vacation of plats.

(a) *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:

(1) The owners of the land proposed to be vacated sign an acknowledged statement declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the board of county commissioners; or

(2) 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.

(b) *Request for vacation.* The vacation of all or a portion of a final plat shall be initiated by submittal of a request for vacation to the county planning staff, accompanied by the required filing fee and a paper copy of plat map clearly showing the portions of the previous plat that are to be vacated. The plat map shall be prepared in accordance with the requirements of appendix C to this chapter. The county planning staff shall review the vacation request and accompanying materials and shall, within 30 days of receipt, notify the applicant in writing if there are any deficiencies in the materials that need to be addressed in order for the submittal to be considered complete.

(c) *Scheduling and notification.* Within 30 days after the date that the request for vacation is deemed complete by the county planning staff, the board of county commissioners shall schedule a hearing in order to approve or deny the vacation, subject to the following:

(1) Action shall be taken at a public meeting.

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(2) At least 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.

(3) Relevant utilities and other agencies have been notified.

(d) *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.

(e) *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.

(f) *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.

(Ord. of 7-3-2003, § 10.3)

Sec. 34-246. - Variances.

(a) *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, which, 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 ensure conformity to and achievement of the plan.

(b) *Conditions and limitations.* A variance shall not be granted unless the applicant can conclusively prove that the strict adherence to the requirements of this chapter will cause extraordinary hardship. The extraordinary hardship must:

(1) Be the result of unusual topography or geology and not the result of a self-inflicted condition.

(2) Substantially secure the objectives of the standards of these regulations; and

(3) Not adversely affect the health, safety, and general welfare of the public, if otherwise consistent with the general purpose and intent of these regulations and if not injurious or detrimental to the surrounding area.

(c) *Procedures.* The following procedures and requirements shall apply to all requests for variances under these regulations:

(1) Requests for variances shall be submitted in writing prior to the request for preliminary plat approval on the prescribed form available from the county planning staff for that purpose, and upon payment of the required administrative fee.

(2) Variance requests shall be reviewed by the county planning and zoning commission in public hearings which are separate from the public hearings held for approval of the preliminary plat.

(3) 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 New Mexico Open Meetings Act.

(4) Variance requests shall be submitted to the state or other reviewing agencies having expertise in the subject matter for which the variance is sought, and shall be governed by the same time limits in this section.

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(5) The county planning staff shall make written findings of fact and shall produce those findings of facts as a portion of its decision on each request for variance.

(6) The decision shall be prepared, signed, and filed within five working days after the public hearing at which the variance is considered.

(Ord. of 7-3-2003, § 10.4)

Sec. 34-247. - Protection of cultural properties, archaeological sites, and unmarked burials.

(a) Unmarked human burials.

(1) 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.

(2) All subdividers shall comply with the requirements of NMSA 1978, § 18-6-11.2, 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.

(b) The county shall contact the state historic preservation division to determine if properties entered into the register are within the boundaries of the proposed subdivision and:

(1) If there are no such properties entered in the register that are within the boundaries of the subdivision, a copy of the letter to that effect will be provided in the application package for subdivision approval; or

(2) If any such properties entered in the register exist within the boundaries of the proposed subdivision, a copy of the letter to that effect from the state historic preservation division will be provided in the application package for subdivision approval. The county will then consult with the historic preservation division pursuant to the Cultural Properties Act, NMSA 1978, §§ 18-6-1 through 18-6-17.

(Ord. of 7-3-2003, § 10.5)

Secs. 34-248—34-272. - Reserved.

ARTICLE X. - APPEALS

Sec. 34-273. - Who may appeal.

Sec. 34-274. - Appeal process.

Secs. 34-275—34-296. - Reserved.

Sec. 34-273. - Who may appeal.

Any party who is or may be adversely affected by a decision of the county staff or planning and zoning commission in approving or disapproving a summary subdivision or claim of exemption may appeal to the board of county commissioners pursuant to the applicable procedures outlined in articles II and III of this chapter and subject to the limitations in those articles.

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(Ord. of 7-3-2003, § 12.1; Ord. No. 08-09-04.9A, § 12.1, 9-4-2008)

Sec. 34-274. - Appeal process.

(a) *Appeal to board of county commissioners.* The appeal shall consist of a whole record review, and the board of county commissioners may affirm, reverse, remand, or modify the decision of the lower tribunal. The board of county commissioners shall set aside the action of the lower tribunal only if it is found to be:

(1) Arbitrary, capricious or an abuse of discretion;

(2) Not supported by substantial evidence; or

(3) Otherwise not in accordance with law.

(b) *Conduct of appeal hearing.*

(1) No later than ten days prior to the date of the hearing before the board of county commissioners, the appellant and the applicant must furnish a copy of all exhibits to be introduced at the county commission hearing, along with a list of all witnesses who will or may be called to testify. The appellant and the applicant shall include the amount of time each believes is necessary for the presentation of their portion of the case. A copy of the witness and exhibit list shall be furnished to the opposing party or counsel simultaneously upon submittal to the county. The time allotted for the hearing shall be within the sole discretion of the chairperson of the county commission based upon the complexity of the issue or issues to be heard; the number of witnesses; the number of exhibits and the other issues unrelated to the appeal that may be on the agenda of the county commission at that meeting. If the chairman limits the time of the hearing, the appellant or the applicant must request additional time and state the reason the additional time is necessary.

(2) All testimony shall be given under oath. Each witness who testifies shall be subject to questioning by the opposing party and all requirements of *State ex rel. Battershell* v. *the City of Albuquerque* shall be followed by the county commission.

(3) The hearing shall be conducted as follows:

a. The county staff shall present a report on the issues and the actions of the staff and/or planning and zoning commission in the matter;

b. The appellant shall present its case-in-chief including any examination of witnesses;

c. The applicant shall present its case-in-rebuttal including any presentation of witnesses;

d. The appellant shall present its closing statement;

e. The applicant shall present its closing statement; and

f. The county staff may present recommendations or additional information based upon the case as presented if the staff or the board of county commissioners deems it necessary or desirable.

(c) *Appeal to district court.*

(1) Any party who is or may be adversely affected by a decision of the board of county commissioners in approving or disapproving a preliminary or final plat or assessing a penalty under section 34-299 may appeal to the district court in the county in which the subdivision is located within 30 days of the board's action. An appeal is perfected by filing a notice of appeal in district court. A copy of the appeal shall be served on the board of county commissioners. A copy of the decision or order being appealed shall be attached to the notice of appeal.

(2) The appeal shall consist of a whole record review, and the district court shall set aside the action of the lower tribunal only if it is found to be:

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a. Arbitrary, capricious or an abuse of discretion;

b. Not supported by substantial evidence; or

c. Otherwise not in accordance with law.

(d) *Standing.* Any party to the action in district court shall have full appellate rights in accordance with the laws of the state and the rules of appellate procedure for the state.

(Ord. of 7-3-2003, § 12.2; Ord. No. 08-09-04.9A, § 12.2, 9-4-2008)

Secs. 34-275—34-296. - Reserved.

ARTICLE XI. - ENFORCEMENT, PENALTIES, AND REMEDIES

Sec. 34-297. - Purpose and authority.

Sec. 34-298. - Investigation of alleged violations.

Sec. 34-299. - Penalties and remedies.

Sec. 34-297. - 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, NMSA 1978, § 47-6-1 et seq. The remedies provided in these regulations shall be cumulative and not exclusive.

(Ord. of 7-3-2003, § 13.1)

Sec. 34-298. - 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 planning staff for investigation. The county planning staff 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 planning staff shall inform the complainant in writing of what actions have been taken or will be taken in response to the complaint.

(Ord. of 7-3-2003, § 13.2)

Sec. 34-299. - Penalties and remedies.

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

(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 $500.00 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 NMSA 1978, § 47-6-27.2 be disconnected.

(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

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plat if the subdivider does not meet the schedule of compliance approved by the board of county commissioners.

(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. Recision 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 $5,000.00 for each parcel created in knowing, intentional or willful violation of the New Mexico Subdivision Act or these regulations.

(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.

(5) *Criminal penalties.*

a. NMSA 1978, § 47-6-27 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 $10,000.00 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 $25,000.00 per violation or by imprisonment for not more than 18 months, or both.

b. Any violation of the provisions of these regulations is punishable by a fine not to exceed $300.00 or imprisonment for not more than 90 days, or both, in accordance with NMSA 1978, § 4-3-7.

(Ord. of 7-3-2003, § 13.3)

APPENDIX A. - DEVELOPMENT PLAN FOR SOUTHEASTERN SANDOVAL COUNTY TO SANDOVAL COUNTY SUBDIVISION REGULATIONS

SECTION 1. - JURISDICTION AND INTENT.

SECTION 2. - DEFINITIONS.

SECTION 3. - GENERAL REQUIREMENTS.

SECTION 4. - PRELIMINARY PLAT PROCEDURE.

SECTION 5. - EXPIRATION OF PRELIMINARY PLAT.

SECTION 6. - DISCLOSURE STATEMENT.

SECTION 7. - VARIANCES.

SECTION 8. - CHANGES OR AMENDMENTS.

SECTION 9. - SEVERABILITY.

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SECTION 10. - PLAT APPROVAL - SUMMARY PROCEDURE.

[SECTION 11]. - ENFORCEMENT.

SECTION 1. - JURISDICTION AND INTENT.

This Appendix is to provide regulations governing the subdivision of land within southern Sandoval County. The area governed by these regulations (hereinafter referred to as the "Development Area") is shown on the map attached hereto and is generally described as follows: All lands subject to the jurisdiction of the Sandoval County Subdivision Regulations as described in Section 34-4 of those regulations and within an area bounded on the North by a line following the northern boundary of Township 13 North NMPM and the southern extent of the Pueblos of San Felipe and Santa Ana; on the East by the Sandoval County/Santa Fe County line; on the South by the Sandoval County/Bernalillo County line; and on the West by a line matching the eastern extent of the Laguna Indian Reservation. Lands lying west of Interstate 25 and within the boundaries of the Greater Bernalillo Extra-Territorial Zone shall be exempt from the requirements of this Appendix. The members and heirs of the San Antonio de las Huertas Land Grant shall be subject to the requirements of the applicable state statute when disbursing their lands in common to an heir (NMSA 1978, § 49-1-11). The requirements of this Appendix shall not apply to this method of property disbursement. This Appendix provides for additional requirements to those contained in the remainder of the Sandoval County Subdivision Regulations and if there is a conflict between the requirements of this Appendix and the requirements within the balance of the Subdivision Regulations, the requirements that are more restrictive will control. This Appendix shall be reviewed and updated periodically in an effort to insure that the best available data is being used for the determination of water availability.

The purpose and intent of this Appendix is to insure[ensure] that the harmonious, orderly, and progressive development of land within the Development Area occurs in a manner that promotes the public health, safety, and welfare of the people within this area. The stringent water quantity requirements of this Appendix have been developed in consideration of the limited water resources, complex hydrology, and rapid growth of the Development Area. This Appendix shall take into account the diverse geographic area, limitations on water supply, desires of the local inhabitants, traditional land uses, traditional cultural practices, constitutional rights of property owners, and development trends within the designated area. This Appendix shall retain the area's prevailing rural residential character and protect its natural resources, environmentally critical areas, and significant historic sites. The incorporation of this Appendix into the Sandoval County Subdivision Regulations will not affect previously approved and filed subdivisions within the Development Area.

SECTION 2. - DEFINITIONS.

For [this] Appendix A, the following definitions are applicable. If there is no definition listed in this section, then those definitions within the Sandoval County Subdivision Regulations apply.

County Planning Administrator: The Planning and Zoning Director of Sandoval County or his/her designee.

Greater Bernalillo Extraterritorial Zone: The area of jurisdiction of the Town of Bernalillo/Sandoval County Extra-Territorial Zoning Ordinance as shown on the maps adopted in conjunction with that Ordinance on November 19, 1986.

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SECTION 3. - GENERAL REQUIREMENTS.

All subdivisions within the Development Area shall be subject to the following standards:

A. The subdivider shall provide a Site Map with the following information:

1. Scale shall be 1"=1,000' (one inch equals one thousand feet).
2. The area covered by the Site Map shall extend 5,000 ft. from the external boundaries of the subdivision.
3. Average lot sizes will be calculated for all land contiguous to the site of the proposed subdivision, if that land has been subdivided.
4. Lands within the site of the proposed subdivision shall be identified as either public or private.
5. Acequias and irrigation easements shall be identified within the site of the proposed subdivision.
6. Zoning classification shall be identified for the site of the proposed subdivision.
7. Access to the subdivision shall be identified within the site of the proposed subdivision.

B. Major intersections which will be utilized in order to gain access to the subdivision shall be identified regardless of their proximity to the subdivision.

C. Private and public schools shall be identified within the Development Area that will most likely be impacted by the subdivision.

D. Police and Fire Stations or substations that will serve the subdivision shall be identified.

E. The subdivider shall be required to notify, by registered mail, all abutting property owners and abutting neighborhood associations prior to submitting the subdivision plan to the Sandoval County Planning Office. This notification will be for the purpose of providing general information about the proposed subdivision to affected abutters. This information shall be of a specific enough nature as to identify the boundaries of the subdivision, access points to and from the subdivision, approximate size of lots, open space, arroyos, infrastructure requirements, proposed water delivery system, solid and liquid waste disposal methods and any other relevant material which will allow the lay person to determine the size and impact of the proposed subdivision.

[F.]A. If the subdivider dedicates land within the newly created subdivision to any entity other than Sandoval County, it must be held in common and in perpetuity by a Landowners Association.

G. Subdivisions within the Development Area shall obtain prior approval from the Sandoval County Fire Marshal in accordance with the Uniform Fire Code and other applicable Federal and State regulations before Final Plat approval is granted by the Board of County Commissioners. Roadway grades shall not exceed 10% and shall be manageable for emergency services.

H. All new subdivisions within the Development Area shall form a Landholders Association or Water Association which shall impose and enforce Restrictive Covenants which at the minimum, specifically limit the amount of water consumed per household to 85 gallons per day per person (gpcd gallons per capita per day) plus water needed for outdoor landscaping up to a maximum of .5 acre feet/year for all uses combined and require metering of all wells within the proposed subdivision. The Restrictive Covenants shall contain provisions for water conservation which adhere to Section 6 of the Water Conservation and Quantification of Water Demands in Subdivisions; A Guidance Manual for Public Officials and Developers: Brian C. Wilson, P.E.; New Mexico State Engineer Office, Technical Report 48, February 1996. The Restrictive Covenants shall provide a penalty clause that shall be imposed on individual households which exceed the combined indoor and outdoor domestic use. This penalty provision shall be part of the Disclosure Statement and shall be constructed in a sliding scale manner with the penalty

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becoming more severe the more water is used above the combined use limit. The Restrictive Covenants shall also state that the monies collected through this penalty provision shall be used to implement an educational program aimed specifically at the user offenders as well as aiding the offender in achieving compliance.

I. All run-off water generated on the lot through the introduction of impermeable surfaces shall be maintained either on the lot in an on-site pond or a cistern, or maintained in centralized storm water retention ponds within the development or the lot owner may wish to direct the newly created run-off into a natural outlet, but must do so at the same rate and volume as the historical flow. If the option chosen is a cistern then the lot owner may increase their water consumption restraints in equal proportion to the cistern storage capacity.

J. For any subdivision that utilizes a community water system, covenants and restrictions shall be recorded with the final plat wherein the drilling or use of individual and/or shared domestic wells permitted under NMSA 1978, § 72-12-1 is strictly prohibited.

[K.] The requirements of [this] Section 3 shall apply to all subdivisions in excess of five lots regardless of type, unless the subdivision otherwise qualifies for review under the Summary Plat procedure.

SECTION 4. - PRELIMINARY PLAT PROCEDURE.

This Section is intended to provide enough information to the Sandoval County Planning and Zoning Commission so that it will be able to reasonably determine the impact of the proposed subdivision on: the terrain, water table, water availability to pre-existing water users, drainage courses, existing streets or roadways, emergency services, cultural properties, archaeological sites, unmarked burials, current population density, or other infrastructure facilities provided by Sandoval County. These procedures are in addition to the requirements of Articles V and VII of the Sandoval County Subdivision Regulations.

A. WATER QUANTITY AND MINIMUM LOT SIZE DETERMINATION: The subdivider shall prove that water exists within the boundaries of the proposed subdivision in sufficient quantity to deliver 85 gallons per capita per day per dwelling unit plus water needed for landscaping up to a maximum of .5 acre feet per household per year for all uses combined. The number of individuals per dwelling unit will be determined in the same manner as that used by the current New Mexico State Environment Department (NMED) Liquid Waste Disposal Regulations, for design flow. (Note that the NMED design flow calculations are based on 75 gallons per capita per day use. The required water quantity delivery per person per dwelling unit of 85 — 160 gallons per day is slightly higher due to the addition of an evaporative cooler and water softener to the total water consumption per person per household. The design flow criteria of the NMED shall be used to compute the liquid waste disposal requirements).

Water quantity will be determined by physically drilling a well within the boundaries of the proposed subdivision, if a well does not already exist within the boundaries of the proposed subdivision. A well test shall be performed whether the well is new or pre-existing. The following procedures for well testing and interpretation are required with the goal of ensuring that the density of future development in this Development Area will take into account the availability of ground water of usable quality beneath the proposed development. An adequate water supply shall be demonstrated for a duration of 100 years without substantially impacting existing water rights or water permit holders as determined by the Office of the State Engineer. Well construction, pump testing, and interpretation should be performed by a qualified professional. Although specific "cook-book" requirements for well construction and pump testing are not recommended, specific minimum requirements for these activities must be performed and are detailed in the sections below.

1. Preliminary Work.

a. Determine projected water demand based on accepted and realistic values for water use.

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b. Evaluate the geologic and hydrogeologic setting (literature search).

c. Perform a field geologic reconnaissance within a 1 mile radius of the proposed development borders and prepare a detailed geologic map of this area based on the field reconnaissance and existing published geologic literature.

d. Determine the target aquifer(s) based on geologic mapping and the literature search. (New Mexico Bureau of Mines).

e. Plot all known and permitted domestic wells within ½ mile radius, and all known and permitted municipal, industrial, and agricultural wells within 1-mile radius of the proposed development borders.

2. Well Construction, Well Test.

a. The test well shall be located inside the boundaries of the proposed development. Pumping tests shall consist of both a step drawdown test and a constant-rate discharge test. The purpose of the step drawdown test is to determine the optimal pumping rate for the constant rate discharge test.

b. The well construction shall be at or above industry standards (see references in subsection [A.]6 below), incorporating appropriate casing, gravel pack, and well seal application. To reduce the risk of contamination migrating down the borehole, a 2-foot thick bentonite seal shall be placed in the annulus above the gravel pack and a cement grout seal shall be placed in the annulus from ground surface to a depth of 20 feet. The well screen shall be of sufficient length to allow ground water to efficiently enter the well and to ensure the best possible sustainable production. Wells must be properly developed as soon as is practicable after completion of testing.

Static water levels shall be measured for a minimum of 48 hours prior to hydraulic testing. These data will provide background information on the potential effects of nearby pumping wells, and provide an initial water level.

c. A step drawdown test shall be performed prior to the constant discharge test to evaluate the range of pumping rates that can be sustained during the constant rate discharge test.

d. The constant-pumping rate shall equal or exceed the proposed pumping rate for the development, and be adequate to allow computation of reliable estimates of aquifer transmissivity and storativity. The pumping rate shall take into account possible additional demands on water production due to the need for water treatment, outdoor landscaping, increased water demands during peak periods, etc. (Data can be obtained from New Mexico State Engineer Office Technical Manual 48.)

e. Where possible, water levels shall be measured during the constant rate discharge test in observation wells for the purpose of determining aquifer transmissivity and the aquifer storage coefficient.

f. The duration of the test shall be sufficient to allow a reliable calculation of hydraulic conductivity and to identify aquifer boundaries that may affect water supply to the well in a 100-year time frame. The well test data and site-specific aquifer lithology data shall be used to make a reliable estimate of the storage coefficient of the aquifer. The minimum duration of the constant-rate pumping test shall be 1,000 minutes (three log cycles) at a rate sufficient to sustain an individual dwelling unit for 100 years of use. If it appears likely that water produced during the drawdown phase of the aquifer constant rate discharge test will percolate and reach the aquifer during the drawdown and recovery phase of the aquifer test, it shall either be confined in a storage tank or piped away from the site as long as the water does not cause damage to any property or persons downstream. Return of pumped water to the aquifer may lead to the appearance of a recharge boundary which may lead to erroneous interpretation of data.

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g. Both drawdown and recovery shall be monitored until the water level stabilizes to at least 90% of the drawdown.

h. The duration of the test shall be sufficient to allow water quality to stabilize.

3. Data Interpretation/Presentation.

a. The well test report shall contain reliable estimates of aquifer transmissivity, storage coefficient or specific yield, aquifer thickness, and hydraulic conductivity. The report shall include diagrams showing well completion, hydrgeology, and water elevation contours.

b. The method of data interpretation shall take into account local hydrogeologic conditions that may affect the aquifer response to pumping. Some examples include:

i. Lithology of the aquifer: alluvium, sandstone, fractured limestone, etc., or aquifer barrier boundaries potentially affecting long term yield;

ii. Location(s) and hydraulic properties of confining layer(s) and potential artesian conditions;

iii. Screen length relative to aquifer thickness.

c. An evaluation shall be made of the drawdown effects of the proposed pumping rate (under full occupancy of the development) over a 100-year duration, including projected water-level drawdowns in existing wells that may be hydrologically connected to the proposed water supply wells, over the 100-year duration.

d. Potential effects on nearby surface water courses including acequias shall be evaluated.

e. The well test report shall include all the information obtained from the test as listed in sections [A.]1 through 3 above.

f. Calculations of recharge, ground water available in storage, and minimum lot size (per [sub]section [A.]5 below) shall be included in the report.

g. In the case that geohydrologic technical circumstances prevent conducting these aquifer tests as specified above, an alternative method may be proposed that meets the requirements of this Section and can be cited in the scientific literature. The proposed method shall be subject to review and approval by the New Mexico State Engineer Office prior to performing the test.

4. Review Requirement.

Test data, results, analysis and conclusions shall be reviewed by the State Engineer Office for compliance to this Appendix as well as the appropriate state statutes and/or by another qualified individual or Firm.

5. Determination of Minimum Lot Size.

Minimum lot size for a land division within the Development Area shall be defined by the appropriate water allocation method as defined herein. In the event that there is a conflict between the minimum lot size derived under this Section and that specified by the Sandoval County Comprehensive Zoning Ordinance (Appendix A to the Sandoval County Code of Ordinances, the requirement that is more restrictive will control.

The main purpose of this Section is to ensure that adequate lot size is established in order to control the rate of groundwater depletion and to prove sufficient ground water in storage over the target time period of 100 years without substantially impacting existing water rights or water permit holders as determined by the Office of the State Engineer. Estimates of aquifer thickness and ground water available in storage should be based on: cuttings collected as the borehole for the well is drilled, aquifer test results, and published data.

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Methods used must have been described in the hydrogeologic literature, and applied with reasonable success somewhere in the southwestern U.S. (preferably in New Mexico). Not all of the ground water in storage in an aquifer can be readily withdrawn. Therefore a reasonable estimate of the percent of ground water in storage that can be withdrawn should be made based on the characteristics of the aquifer. Ground water storage estimates should be determined using the following method (Wilson, 1980).

$$S = Ac \times SY \times ST \times RC$$

where:

S = Ground water in storage, acre feet

Ac = Size of tract in acres

SY = Specific yield for unconfined aquifers or storativity for confined aquifers.

ST = Saturated thickness of aquifer

RC = Recovery factor, is an estimate of how much of the water in storage might be economically recovered by a properly designed well field. The number 0.8 shall be used, unless the applicant demonstrates a greater efficiency for the proposed well field. As an example, such efficiency could be demonstrated by a computer model showing that when 90% of the water in storage is depleted, there will still be sufficient flow to wells such that a yield of 1 gpm (gallons per minute) can be maintained without drawing water below the pump setting. In this example, RC = 0.9 (Wilson, 1980).

Minimum lot sizes shall be based on a ground water supply of 100 years per lot.

The following method shall be used to determine the minimum lot size:

$$MLS=U/A$$

where:

MLS = Minimum lot size in acres

U = Water use per lot per 100 years, acre-feet

A = Water availability per acre = S/Ac

The well test data and the gallons per person per annum will be used to determine the number of lots which can be sustained by each well. If the well test data supports more than the minimum requirements needed for one lot, that particular well can be used for up to five (5) lots unless that well is to be utilized for a community water system permitted by the Office of the State Engineer. Multiple well connections shall be encouraged. Individual well test data shall not be used to determine the total number of lots that can be created within the entire subdivision. Rather, individual well test data will be used to determine the number of lots which can be served by that particular well. If more lots are desired by the subdivider, then a new well will have to be drilled and tested in the above described manner. This sequence of events will occur until the desired number of lots is reached or the area within the subdivision is exhausted.

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The above quantification in no way represents a guarantee by the subdivider or Sandoval County of the life expectancy of available groundwater. Rather, the 100 year horizon is intended to provide the best possible information to a prospective lot purchaser. The drilling of a well and the performance of a well test assures that the most accurate information concerning groundwater and its availability is being secured for the Development Area, and is being supplied to the State Engineer, the Board of County Commissioners, the Planning and Zoning Commission, and the prospective lot purchaser so that they can make the most informed decision possible concerning a particular development.

6. Water Quality.

Water samples shall be collected from the proposed well. Water samples shall be tested for contaminants as per the requirements of Section 34-189 of the Sandoval County Subdivision Regulations.

[B.]C. REQUIRED IMPROVEMENTS: All roads and streets internal to a subdivision shall provide access to all lots within the proposed subdivision. All roads and streets internal to a subdivision may be dedicated to Sandoval County and must be constructed in accordance with the standards developed in the Sandoval County Subdivision Regulations, whether public or private. No roads or streets within a subdivision will be approved or built, until approval is received from the County Fire Marshal. All improvements, including roads and streets, deemed necessary by the County for the development of the subdivision shall be built by the subdivider at his/her own expense. If the subdivider chooses not to construct the improvements necessary for the subdivision at the time of Preliminary Plat approval and before Final Plat approval, he/she shall financially guarantee such improvements in accordance with the procedure outlined in Article VI of the Sandoval County Subdivision Regulations.

Rights-of-way within subdivisions shall provide for the location of necessary utilities and shall connect to adjacent utility rights-of-way in a logical manner. All utility companies shall sign the Final Plat prior to approval to ensure that the utility rights-of-way are appropriate.

If the roads and streets within a subdivision are not to be dedicated to the County, the Subdivision Covenants shall provide a mechanism for maintenance in perpetuity for those roads and streets.

[C.]D. EMERGENCY SERVICES: The subdivider shall meet with the County Fire Marshal and the County Sheriff to insure[ensure] that the proposed subdivision does not adversely impact the County's ability to adequately provide Emergency Services to residents within the proposed subdivision. The Fire Marshal and the Sheriffs Dept. shall issue a statement to the Planning and Zoning Department concerning the effect the proposed subdivision will have on Emergency Services.

[D.]E. CULTURAL PROPERTIES, ARCHEOLOGICAL SITES AND UNMARKED BURIALS: The subdivider shall insure[ensure] that if there are any cultural properties, archeological sites, or unmarked burials discovered during the subdivision process, protection shall be in accordance with the Cultural Properties Act, NMSA 1978, §§ 18-6-1 to 18-6-17.

SECTION 5. - EXPIRATION OF PRELIMINARY PLAT.

A. The Expiration of a Preliminary Plat approved for a subdivision within the Development Area shall be subject to the terms and conditions of Section 34-122 of the Sandoval County Subdivision Regulations.

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SECTION 6. - DISCLOSURE STATEMENT.

A. The subdivider shall meet all of the requirements for Disclosure Statements as specified in the Sandoval County Subdivision Regulations.

SECTION 7. - VARIANCES.

Where in the case of a particular subdivision, it can be shown that strict compliance with the requirements of these regulations would result in extraordinary hardship to the subdivider because of unusual topography or other non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the objectives of these regulations, [the] subdivider may file a written request for a variance. Such request must be made on a form prescribed for such by the Planning and Zoning Department and be accompanied by the filing fee prescribed by Section 34-9 of the Sandoval County Subdivision Regulations. Hearings on such variance requests shall be governed by the procedures outlined in Section 34-246(c) of the Sandoval County Subdivision Regulations.

The Board of County Commissioners may vary, modify, or waive the requirements of these regulations after recommendation by the Planning and Zoning Commission, and upon adequate proof that compliance with the regulations at issue will result in an arbitrary and unreasonable taking of property or exact undue hardship on the property owner. Proof that a variance from the regulations will not result in a condition injurious to health and safety is also required. In arriving at this determination, the Board of County Commissioners or Planning and Zoning Commission, shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification, or waiver be granted by the Board of County Commissioners or be recommended by the Planning and Zoning Commission if, by doing so, the intent and purpose of these regulations would be nullified.

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

SECTION 8. - CHANGES OR AMENDMENTS.

Future amendments to this Appendix may be made by the Board of County Commissioners subject to the terms and conditions of Section 34-10 of the Sandoval County Subdivision Regulations.

SECTION 9. - SEVERABILITY.

If any of the provisions of this Appendix is declared illegal, void or unenforceable, the remaining provisions will not be affected and shall remain in full force and effect.

SECTION 10. - PLAT APPROVAL - SUMMARY PROCEDURE.

The geographic area covered by these regulations is subject to unique circumstances or conditions that require additional review under the Summary Procedure beyond the provisions for such review under Article III of the Sandoval County Subdivision Regulations.

A. Type Three subdivisions containing five or fewer parcels, any one of which is less than 3 acres, and all Type Five Subdivisions shall be subject to the Summary Procedure of this Section.

B. The following shall by submitted to the County Planning Administrator:

1. A paper copy of the preliminary plat without contour lines;
2. Well test report conforming to the requirements of Section 10(F)(2) of this Appendix;

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3. Proposed disclosure statement;

4. Inspection fee in the amount of $100.00.

C. Section 3 of this Appendix shall not apply

D. In lieu of the requirements in Section 4A of this Appendix, the following requirements shall be met:

1. A modified terrain management plan which includes:

a. The subdivider shall stake the proposed lot concerns and the location of proposed roads and drainage structures in such a manner that a physical inspection can be made of the proposed subdivision.

b. The County Planning Administrator and any other County official(s) whose expertise is deemed necessary by the County Planning Administrator shall make a physical inspection of the proposed subdivision to determine the following, at a minimum:

i. Adequacy and safety of the proposed roads to ensure that they do not exceed the maximum grade as indicated in the Appendix;

ii. Adequacy of drainage structures and channels to prevent erosion;

iii. The infrastructure needs of the proposed subdivision.

E. Subsequent to the physical inspections the County Planning Administrator may make additional requirements to satisfy any inadequacies revealed by the inspection.

F. WATER QUANTITY AND MINIMUM LOT SIZE DETERMINATION.

In lieu of the requirements of Section 4B of this Appendix, no lots shall be sold, offered for sale, or otherwise transferred without proof of water availability as provided below:

1. The subdivider shall prove that water exists within the boundaries of the proposed subdivision in sufficient quantity to deliver 85 gallons per capita per day per dwelling unit plus water needed for landscaping up to a maximum of .5 acre feet per household per year for all uses combined. Each individual lot owner, shared well or community water system shall be metered and shall submit a semiannual water reading to the State Engineer Office. The number of individuals per dwelling unit will be determined in the same manner as that used by the New Mexico State Environment Department (NMED) Liquid Waste Disposal Regulations, January 1990, for design flow. (Note that the NMED design flow calculations are based on 75 gallons per capita per day use. The required water quantity delivery per person per dwelling unit of 85 gallons per day is slightly higher due to the addition of an evaporative cooler and water softener to the total water consumption per person per household. The design flow criteria of the NMED shall be used to compute the liquid waste disposal requirement.) Water quantity will be determined by either utilizing an existing well or physically drilling a well within the boundaries of the proposed subdivision and performing a well test.

2. If a new well is required, it will be opened and run for a period of 24 hours at a volume equaling .3 gallons per minute per dwelling proposed to be serviced by that well. Measurements of the water level in the well will be taken as follows:

a. Before well test begins;

b. At 3, 6 and 24 hours;

c. At the end of the test;

d. 24 hours after the end of the test.

A well test report form prescribed by the County will be completed and signed by the person performing the well test, attesting to its accuracy. The well test report shall include, along with other pertinent data, the total depth of the water column in the well. A well test

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performed without excessive fall in the water level and with adequate recovery of the water level after the test, utilizing applicable standards developed by the Office of the State Engineer, will satisfy the requirement of this section. A final copy of the well-test report shall be attached to and made a part of the Disclosure Statement and recorded along with that Statement and the plat of the Summary Subdivision in the Office of the Sandoval County Clerk.

3. If a pre-existing well is to be used for the water quantity assessment, data shall be obtained either through the above procedure (Item F.2) or other available technological means which meet the water quantity requirements stated within this Summary Plat Procedure.

[4.]1. Minimum lot size shall be determined by the requirements of the Sandoval County Comprehensive Zoning Ordinance (Appendix A to the Sandoval County Code of Ordinances).

[G.]A. Sections 4C, 4D, and 4E of this Appendix shall apply to the Summary Procedure. The Disclosure Statement for subdivisions approved under this section shall contain all information required for such Statements under Section 34-74(e) of the Sandoval County Subdivision Regulations.

[SECTION 11]. - ENFORCEMENT.

The requirements of this Appendix may be enforced by the County Planning Staff to the full extent of the applicable laws, subject to the terms and conditions of Article XI of the Sandoval County Subdivision Regulations and provided further that:

A. Upon approving a Summary Plat, the County Planning Administrator reserves jurisdiction to subsequently determine whether plat approval should be suspended or revoked as to the unsold or unleased portions of the plat because of:

1. Any intentional material misstatement of fact in the disclosure statement or of any information provided by the subdivider upon which the County Planning Administrator relied;

2. A subsequent failure to comply with a material provision of the disclosure statement or a subsequent failure to comply with county summary plat procedures or any additional conditions placed thereon which are in effect at the time of plat approval as to that particular plat.

APPENDIX B. - DISCLOSURE STATEMENT FOR ALL TYPE 1, 2, 4 AND TYPE 3 SUBDIVISIONS OVER FIVE LOTS

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

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addition, this disclosure statement is not a recommendation or endorsement of the subdivision by either the county or the State. It is information 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 County Clerk.

> 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 requirements for construction of additional improvements before you occupy the property.

1. NAME OF SUBDIVISION

(Name of subdivision) _____

2. NAME AND ADDRESS OF SUBDIVIDER

(Name of subdivider) _____
(Address of subdivider) _____

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

(Name of person in charge of sales, leasing or other conveyance) _____
(Address of person in charge of sales, leasing or other conveyance)

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_____
(Telephone number of person in charge of sales, leasing or other conveyance) _____

4. SIZE OF SUBDIVISION BOTH PRESENT AND ANTICIPATED

Present	Anticipated
(Number of parcels) _____	(Number of parcels) _____
(Number of acres in subdivision) _____	(Number of acres in subdivision) _____

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

(Size of largest parcel in acres) _____

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

(Size of smallest parcel in acres) _____

7. PROPOSED RANGE OF PRICES FOR SALES, LEASES OR OTHER CONVEYANCES

($=lowest amount)	(Size of parcel sold, leased or conveyed)

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_____	_____
($=highest amount) _____	(Size of parcel sold, leased or conveyed) _____

8. FINANCING TERMS

(Interest rate) _____
(Term of loan or contract) _____
(Minimum down payment) _____
(Service charges and/or escrow fees) _____
(Premium for credit life or other insurance if it is a condition for giving credit) _____
(Closing costs) _____
(Any other information required by the Truth in Lending Act and Regulation Z if not set forth above) _____

9. NAME AND ADDRESS OF HOLDER OF LEGAL TITLE

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

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

NOTE: IF ANY OF THE HOLDERS OF LEGAL TITLE NAMED ABOVE IS A CORPORATION, LIST THE NAMES AND ADDRESSES OF ALL OFFICERS OF THAT CORPORATION.

10. NAME AND ADDRESS OF PERSON HAVING EQUITABLE TITLE

(Name of person who is recorded as having equitable title) _____
(Address of person who is recorded as having equitable title) _____

NOTE: IF ANY OF THE HOLDERS OF EQUITABLE TITLE NAMED ABOVE IS A CORPORATION, LIST THE NAMES AND ADDRESSES OF ALL OFFICERS OF THAT CORPORATION.

11. CONDITION OF TITLE

Include at least the following information where applicable

(Number of mortgages) _____
(Name and address of each mortgage) _____
(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)

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_____
(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 owning 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) _____

12. 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) _____

13. ESCROW AGENT

(Name of escrow agent) _____
(Address)

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_____
(Statement of whether or not the subdivider has any interest in or financial ties to the escrow agent) _____

14. UTILITIES

(Name of entity providing electricity, if available) _____	(Estimated cost per parcel) _____
(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) _____

15. INSTALLATION OF UTILITIES

(Electricity)	(Date)

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_____	_____
(Gas) _____	(Date) _____
(Water) _____	(Date) _____
(Telephone) _____	(Date) _____
(Liquid waste disposal) _____	(Date) _____
(Solid waste disposal) _____	(Date) _____

16. 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 aboveground or underground)

Aboveground	Underground
Electricity	(Date)

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_____	_____
Gas _____	(Date) _____
Water _____	(Date) _____
Telephone _____	(Date) _____
Liquid waste disposal _____	(Date) _____
Solid waste disposal _____	(Date) _____

17. WATER AVAILABILITY

(Describe the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses) _____
(Describe 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)

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_____

(Describe what measures, if any, will be employed to monitor or restrict water use in the subdivision)

_____

18. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS

(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)

_____

19. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS

(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)

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_____

(Average depth to groundwater 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)

_____

20. LIFE EXPECTANCY OF WATER SUPPLY

(State the life expectancy of each source of water supply for the subdivision under full development of the subdivision)

_____

21. SURFACE WATER*

*Not applicable where subdivider intends to provide water for domestic use.

(Provide a detailed statement the source and yield of the surface water supply and any restrictions to which the surface water supply is subject)

_____

22. NEW MEXICO STATE ENGINEER'S OPINION ON WATER AVAILABILITY

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

(Whether or not the subdivider can furnish water sufficient in quantity to fulfill the maximum annual

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water requirements of the subdivision, including water for indoor and outdoor domestic uses)

_____

(Whether or not the subdivider can fulfill the proposals in this disclosure statement concerning water, excepting water quality)

_____

23. WATER QUALITY

(Describe the quality of water in the subdivision available for human consumption)

_____

(Describe any quality that would make the water unsuitable for use within the subdivision)

_____

(State the name, the contaminant level, the maximum contaminant level, the expected adverse effects of the contaminant for domestic use, and the recommended treatment method to reduce the contaminant level to or below the maximum contaminant level for any contaminants which exceed the maximum contaminant levels listed in these Regulations)

_____

24. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON WATER QUALITY

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

(Whether or not the subdivider can furnish water of an acceptable quality for human consumption and measures to protect the water supply from contamination in conformity with state regulations)

_____

(Whether or not the subdivider can fulfill the water quality proposal made in this disclosure statement)

_____

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(Whether or not the subdivider's proposal for water quality conforms to the County's water quality regulations)

_____

25. 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 AND THE NEW MEXICO ENVIRONMENT DEPARTMENT.

26. N.M. ENVIRONMENT DEPARTMENT'S OPINION ON LIQUID WASTE DISPOSAL

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

(Whether there are sufficient liquid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations)

_____

(Whether or not the subdivider can fulfill the liquid waste proposals made in this disclosure statement)

_____

(Whether or not the subdivider's proposal for liquid waste disposal conforms to the County's liquid waste disposal regulations)

_____

27. SOLID WASTE DISPOSAL

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

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_____

28. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON SOLID WASTE DISPOSAL

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

(Whether or not there are sufficient solid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations)

_____

(Whether or not the subdivider can fulfill the solid waste proposals made in this disclosure statement)

_____

(Whether or not the subdivider's proposal for solid waste disposal conforms to the County's solid waste disposal regulations)

_____

29. 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 Sandoval 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)

_____

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(Identify by lot and block numbers all parcels within the subdivision located in whole or in part on slopes in excess of eight percent (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) _____

30. NATURAL RESOURCE CONSERVATION DISTRICT'S OPINION ON TERRAIN MANAGEMENT

Include here the approved summary of the opinion received by the Board of County Commissioners from the Soil and Water Conservation District on:
(Whether or not the subdivider can furnish terrain management sufficient to protect against flooding, inadequate drainage and soil erosion) _____
(Whether or not the subdivider can satisfy the terrain management proposals made in this disclosure statement) _____
(Whether or not the subdivider's terrain management proposals conform to the County's regulations on terrain management) _____

31. SUBDIVISION ACCESS

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(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) _____

32. MAINTENANCE

(State whether the roads and other improvements within the subdivisions 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) _____

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33. STATE HIGHWAY DEPARTMENT'S OPINION ON ACCESS

Include here the approved summary of the opinion received by the Board of County Commissioners from the State Highway and Transportation Department on:
(Whether or not the subdivider can fulfill the state highway access requirements for the subdivision in conformity with state regulations) _____
(Whether or not the subdivider can satisfy the access proposal made in this disclosure statement) _____
(Whether or not the subdivider's access proposals conform to the County's regulations on access) _____

34. CONSTRUCTION GUARANTEES

(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 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.

35. 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) _____

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36. RECREATIONAL FACILITIES

(Describe all recreational facilities, actual and proposed in the subdivision) _____
(State the estimated date of completion of each proposed recreational facility) _____
(State whether or not there are any bonds, letters of credit or other collateral securing the construction of each proposed recreational facility and describe any such bond, letter of credit or other collateral) _____

37. 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) _____

38. POLICE PROTECTION

List the various police units that patrol the subdivision.
(Sheriff's department, if applicable) _____
(Municipal police, if applicable) _____

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(State police, if applicable)

_____

39. 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)

_____

40. HOSPITALS

(Name of nearest hospital)

_____

(Distance to nearest hospital and route over which that distance is computed)

_____

(Number of beds in nearest hospital)

_____

41. SHOPPING FACILITIES

(Description of nearest shopping facilities including number of stores)

_____

(Distance to nearest shopping facilities and route over which that distance is computed)

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_____

42. PUBLIC TRANSPORTATION

(Describe all public transportation that serves the subdivision on a regular basis)

_____

(Ord. No. 97-07-03-11.C, app. B, 7-17-1997)

APPENDIX C. - PLAT PREPARATION STANDARDS

All plats prepared for approval by Sandoval County shall contain the following information and/or meet the standards outlined as follows:

GENERAL STANDARDS

1. The dimensions of each sheet of the plat shall be twenty-four inches by thirty-six inches (24" × 36"). A marginal line shall be drawn around each sheet leaving an entirely blank margin of at least one-half inch (½") on all sides.
2. The plat shall be drawn at an adequate scale in order to allow for legibility, in no case smaller than one inch to two hundred feet (1"=200').
3. All lands from which lots are to be created shall be surveyed and included on the plat unless the total area of the lots to be created is less than two percent (2%) of the area of the parent tract.
4. ALL plats shall contain, at a minimum, the following information and shall be prepared in conformance with the standards contained herein:
   a. Title, scale, north arrow, and date;
   b. Existing and proposed boundary lines, in bearings and distances, for the subdivision;
   c. Subdivision boundary lines, easement and right-of-way lines, and property lines of all lots, with accurate dimensions, and ties to monuments;
   d. Permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
   e. Tract boundary lines, easement and right-of-way lines, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii; arcs, and central angles of all curves;
   f. Lot areas for each lot in acres to the nearest third decimal place. If private roads are proposed for access then the lot areas shall be shown inclusive and exclusive of the area of the access easement(s);
   g. Location, dimensions, and purpose of all easements. For existing easements the date and method of creation, including recording information, of the easement in question shall be included on the plat;

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h. Names of the owner or owners of land to be subdivided, the subdivider if other than the owner, and the name, license number, and address of the land surveyor who is responsible for preparing the plat;

i. Delineation of any one hundred (100) year floodplain as designated by the Federal Emergency Management Agency;

j. The stamped certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey, and that the plat was prepared to the minimum standards for surveying in New Mexico as adopted by the State Board of Registration for Professional Engineers and Surveyors;

k. The township, range, and section within which the subdivision is located, the total acreage of all lands included within the plat area, and the legal description, including recording information, of any previously platted parcel that is proposed for subdivision;

l. Names and right-of-way widths of existing and proposed streets and access easements in and adjacent to the subdivision;

m. A vicinity map no smaller than three inches square (3" × 3") and adequate in scale and legibility to determine the location of the property in relation to the surrounding area;

n. The type of division e.g. "Claim of Exemption-Family Transfer" and proposed legal description of the lots in question clearly identified in the Title Block;

o. Number or letter to identify each lot and block. Lots being replatted shall be numbered sequentially from the original number (e.g. Lot 1 becomes 1-A) and contiguous lots being consolidated shall be redesignated with the lowest number (e.g. Lots 1 and 2 become 1-A);

p. The legal description of all adjoining parcels including references to recorded subdivision plats for platted parcels by name, date, book, and page number in the office of the County Clerk;

q. The location of the limits of a municipality if included within the plat area;

r. Signature blocks for the authorized representatives of the Planning & Zoning Department, the Office of the County Treasurer, and the Office of the County Clerk;

s. If there are any existing improvements within the plat area, a scale drawing shall be submitted showing the location of such improvements and the distance of those improvements from existing and proposed lot lines;

t. Accurate description of legal access to each parcel.

5. Plats prepared for all Type One, Two, Four Subdivisions and all Type Three Subdivisions containing six or more parcels must also contain the following information:

a. A sheet with existing topography and any regrading plans, indicating contour intervals sufficient for planning purposes;

b. Existing and proposed utilities on and adjacent to the site;

c. Locations, dimensions, and purpose of any land to be dedicated to public use, including any improvements to be made to that land;

d. Location of the subdivision in relation to well-known landmarks;

e. Location of historical, or culturally significant features on the site;

f. Centerline data of each road or other right-of-way;

g. Signature blocks for the Chairman and Vice-Chairman of the Sandoval County Board of County Commissioners.

FILING REQUIREMENTS

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Following approval of a plat under the appropriate procedures of this Ordinance, the applicant shall present a Mylar copy of the final plat for signature by the applicable County officials. If the plat was prepared by digital methods, the applicant shall provide simultaneously with the Mylar copy two (2) digital copies of the final plat prepared by the same registered land surveyor who prepared the plat. The digital copies shall meet the following requirements:

(a) *Format.* The digital copies shall be submitted in a format that is compatible with the County's GIS (Geographical Information System) and approved by the Planning and Zoning Department.

(b) *Storage.* The digital copies shall be submitted on CD ROMs produced in a software format that is acceptable to the County. The CD ROMs shall be labeled with the plat title as it appears in the Title Block along with the Township, Range, and Section within which the land in question is located.

(c) *Projection.* The digital copies shall be submitted in accordance with the State Plane Coordinate System NAD 1983 Central Meridian.

(d) *Layers.* Layers shall either contain a layer index or shall consist of and be limited to:

1. SUBD Legal Subdivision boundary (coincident with narrative).
2. LOT Lots, outlots, blocks (areas of land ownership).
3. RDCL Road center lines (public or private).
4. ROAD Platted Right-of-Way.
5. RDEAMT Access Easements across lots.
6. PUESMT Public Utility Easements.
7. DESMT Drainage Easements.
8. ATRIBTS Attributes shall consist of and be labeled as:
    a. Parcel, labeled as Par.
    b. Lots, shall be lot numbers only.
    c. Tract, labeled as Tr.
    d. Block, labeled as Blk.
9. Notes shall consist of notes and legal description and title of plat.
10. SIGBLK shall consist of the Signature Blocks on the plat.

(e) *Geographic extent.* The digital copies shall have contiguous layers of the subdivision and shall not be divided into sheets.

(Ord. No. 97-07-03-11.C, app. C, 7-17-1997)

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Chapter 35 - RESERVED

DRAFT

Chapter 36 - TAXATION

ARTICLE I. - IN GENERAL

ARTICLE II. - GROSS RECEIPTS INDIGENT PROGRAM SET-ASIDE

ARTICLE III. - FIRE PROTECTION EXCISE TAX

ARTICLE IV. - ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX

ARTICLE V. - LODGER'S TAX

ARTICLE VI. - FIRE PROTECTION SERVICES TAX

ARTICLE VII. - COUNTY EMERGENCY COMMUNICATIONS AND MEDICAL SERVICES TAX

ARTICLE VIII. - REGIONAL TRANSIT GROSS RECEIPTS TAX

ARTICLE I. - IN GENERAL

Secs. 36-1—36-18. - Reserved.

Secs. 36-1—36-18. - Reserved.

ARTICLE II. - GROSS RECEIPTS INDIGENT PROGRAM SET-ASIDE [1]

Sec. 36-19. - Purpose.

Sec. 36-20. - Budgetary determination.

Sec. 36-21. - Administration.

Secs. 36-22—36-45. - Reserved.

Sec. 36-19. - Purpose.

The purpose is to establish a fund within the general fund which will provide for the support of indigent patients who are residents of the county.

(Ord. No. 89-04-05B, 4-5-1989)

Sec. 36-20. - Budgetary determination.

The entire proceeds of this collection shall be dedicated to the county indigent program.

(Ord. No. 89-04-05B, 4-5-1989)

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Sec. 36-21. - Administration.

(a) The second one-eighth of one percent shall be administered in accordance with a budget provided by the county commission to the finance department, and in accordance with policies and procedures set forth by the state in NMSA 1978, §§ 7-20-1 through 7-20-8.

(b) Further, the governing body shall adopt and put into effect rules and regulations for the determination of qualifications and eligibility requirements under the terms of this program.

(c) The county administrative offices shall be responsible for seeing that all guidelines, as set forth by the board of county commissioners, are followed and that the program budget is administered in the manner determined by the county commission.

(Ord. No. 89-04-05B, 4-5-1989)

Secs. 36-22—36-45. - Reserved.

FOOTNOTE(S):

--- (**1**) ---

State Law reference— Indigent Hospital and County Health Care Act, NMSA 1978, § 27-5-9. (Back)

ARTICLE III. - FIRE PROTECTION EXCISE TAX [2]

Sec. 36-46. - Imposition of tax.

Sec. 36-47. - General provisions.

Sec. 36-48. - Specific exemptions.

Sec. 36-49. - Dedication.

Secs. 36-50—36-71. - Reserved.

Sec. 36-46. - Imposition of tax.

On the approval of qualified voters, there is imposed on any person engaging in business in the county area outside of the boundaries of any incorporated municipality, for the privilege of engaging in business in this county area, an excise tax equal to one-fourth of one percent of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this article is pursuant to the county Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "county fire protection excise tax."

(Ord. No. 08-15/94.5C, § 1, 8-15-1994)

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Sec. 36-47. - General provisions.

This article hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

(Ord. No. 08-15/94.5C, § 2, 8-15-1994)

Sec. 36-48. - Specific exemptions.

No county fire protection excise tax shall be imposed on the gross receipts arising from transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county area to another point outside the county area.

(Ord. No. 08-15/94.5C, § 3, 8-15-1994)

Sec. 36-49. - Dedication.

Revenue from the county fire protection excise tax will be used in independent fire districts for the purposes listed below:

(1) Operational expenses.

(2) Ambulance services operated by the county.

(3) Capital outlay (including ambulance services operated by the county).

(Ord. No. 08-15/94.5C, § 4, 8-15-1994)

Secs. 36-50—36-71. - Reserved.

FOOTNOTE(S):

--- (**2**) ---

State Law reference— County fire protection services gross receipts tax, NMSA 1978, §§ 7-20E-15, 7-20E-16. (Back)

ARTICLE IV. - ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX [3]

Sec. 36-72. - Imposition of tax.

Sec. 36-73. - General provisions.

Sec. 36-74. - Specific exemptions.

Sec. 36-75. - Dedication.

Secs. 36-76—36-93. - Reserved.

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Sec. 36-72. - Imposition of tax.

There is imposed on any person engaging in business in the county area outside the boundaries of any incorporated municipality for the privilege of engaging in business in the county an excise tax equal to one-eighth of one percent of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this article is pursuant to the county Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "county environmental services gross receipts tax."

(Ord. No. 95-03-16.13A, § 1, 3-16-1995)

Sec. 36-73. - General provisions.

This article hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

(Ord. No. 95-03-16.13A, § 2, 3-16-1995)

Sec. 36-74. - Specific exemptions.

No county environmental services gross receipts tax shall be imposed on the gross receipts arising from transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county.

(Ord. No. 95-03-16.13A, § 3, 3-16-1995)

Sec. 36-75. - Dedication.

Revenue from the county environmental services gross receipts tax is dedicated for: acquisition, construction, operation and maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities.

(Ord. No. 95-03-16.13A, § 4, 3-16-1995)

Secs. 36-76—36-93. - Reserved.

FOOTNOTE(S):

--- (**3**) ---

State Law reference— County environmental services gross receipts tax, NMSA 1978, § 7-20E-17. (Back)

ARTICLE V. - LODGER'S TAX [4]

Sec. 36-94. - Title.

Sec. 36-95. - Purpose.

Sec. 36-96. - Definitions.

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Sec. 36-97. - Penalty.

Sec. 36-98. - Imposition of tax.

Sec. 36-99. - Licensing.

Sec. 36-100. - Exemptions.

Sec. 36-101. - Collection of the tax and reporting procedures.

Sec. 36-102. - Duties of vendor.

Sec. 36-103. - Failure to pay tax; failure to make return; computation, penalty, and notice.

Sec. 36-104. - Refunds and credits.

Sec. 36-105. - Confidentiality of return.

Sec. 36-106. - County audit.

Sec. 36-107. - Advisory board.

Sec. 36-108. - Eligible uses of proceeds.

Sec. 36-109. - Limitations on the use of proceeds.

Secs. 36-110—36-131. - Reserved.

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Sec. 36-94. - Title.

This article shall be known as and may be cited as the "Lodger's Tax Ordinance," as amended.

(Ord. No. 96-09-19.3J, § 1, 9-19-1996)

Sec. 36-95. - Purpose.

The purpose of this article is to impose a tax which will be known by persons using commercial lodging accommodations which will provide revenues for the purpose of advertising, publicizing and promoting facilities authorized in section 36-108, tourist attractions, and acquisition, construction and maintenance of tourist attractions and recreational facilities.

(Ord. No. 96-09-19.3J, § 2, 9-19-1996)

Sec. 36-96. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the advisory board established herein to make recommendations to the governing body, keep complete minutes of its proceedings and submit its recommendations, correspondence and other pertinent documents to the governing body.

County clerk means the county clerk for the County of Sandoval, New Mexico.

County treasurer means the county treasurer for the County of Sandoval, New Mexico.

Gross taxable rent means the total amount of rent paid for lodging, not including the state gross receipts tax or local sales taxes.

Lodging means the transaction of furnishing rooms or other accommodations by a vendor to a vendee who, for a rent, uses, possesses or has the right to use or possess any room or rooms or other units of accommodations in or at a taxable premises.

Lodgings means the rooms or other accommodations furnished by a vendor to a vendee by a taxable service of lodgings.

Occupancy tax means the tax on a lodging authorized by the Lodger's Tax Act.

Person means a corporation, firm, other body corporate, partnership, association or individual. Person includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity. The term "person" does not include the United States of America, the State of New Mexico, any corporation, department, instrumentality or agency of the federal government or the state government, or any political subdivision of the state.

Rent means the consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to an occupancy tax authorized in the Lodger's Tax Act.

Taxable premises means a hotel, apartment, apartment hotel, apartment house, lodge, lodging housing, rooming house, motor hotel, guest house, guest ranch, ranch resort, guest resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, RV park, tourist camp, cabin, or other premises used for lodging.

Tourist means a person who travels for the purpose of business, pleasure or culture to a municipality or county imposing an occupancy tax.

Tourist-related events means events that are planned for, promoted to and attended by tourists.

Tourist-related facilities and attractions means facilities and attractions that are intended to be used by or visited by tourists.

Tourist-related transportation systems means transportation systems that provide transportation for tourists to and from tourist-related facilities, attractions and events.

Vendee means a natural person to whom lodgings are furnished in the exercise of the taxable service of lodging.

Vendor means a person furnishing lodgings in the exercise of the taxable service of lodging.

(Ord. No. 96-09-19.3J, § 3, 9-19-1996)

Sec. 36-97. - Penalty.

Any person who violates the provisions of this article by failure to pay the tax, to remit the proceeds thereof to the county, to submit required forms and reports, or to account properly for any lodging tax proceeds pertaining hereto, shall be subject to penalties for each violation. Each month of noncompliance constitutes a separate offense.

(Ord. No. 96-09-19.3J, § 16, 9-19-1996)

Sec. 36-98. - Imposition of tax.

The board of county commissioners, pursuant to NMSA 1978, § 3-38-14 et seq., hereby imposes an occupancy tax on vendors for gross taxable rent on lodging within the county and outside of the municipal limits of all county municipalities. The amount of the tax imposed under this article is five percent of gross taxable rent.

(Ord. No. 96-09-19.3J, § 4, 9-19-1996)

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Sec. 36-99. - Licensing.

(a) No vendor shall engage in the business of providing lodging in the county who has not first obtained a license as provided in this section.

(b) Applicants for a vendor's license shall submit an application to the clerk stating:

(1) The name of the vendor including identification of any person, as defined in this article, who owns or operates a place of lodging, and the name or trade names under which the vendor proposes to do business, and the post office address thereof;

(2) A description of the facilities including the number of rooms and the usual schedule of rates;

(3) A description of other facilities provided by vendor or other users of the lodgings such as restaurant, bar, cleaning, laundry, courtesy car, stenographic, tailor or others, and a statement identifying the license issued, to whom issued, the authority issuing, and the period for which issued. If applicable, also the identification number provided by the bureau of revenue of the state;

(4) The nature of the business practices of the vendor and to what extent, if any, his business is exempt from the lodger's tax;

(5) Other information reasonably necessary to effect a determination of eligibility for such license.

(c) The county clerk shall review applications for license within ten days of receipt thereof, and grant the license in due course if the applicant is doing business subject to the lodger's tax.

(d) If the county clerk finds the applicant not exempt under the terms of this article, the county clerk shall, not more than ten days after receipt of the application, advise the applicant of the decision and give the reasons therefor.

(e) An applicant who is dissatisfied with the decision of the county clerk may appeal the decision to the county commission by written notice to the county clerk of such appeal to be made within 15 days of the date of the decision on the application. The matter shall be referred to the county commission for hearing at a regular or special meeting in the usual course of business. The decision of the county commission made thereof shall be expressed in writing and be communicated in the same manner as the decision of the county clerk is transmitted. The action of the county commission adverse to the applicant may be appealed to district court, within 30 days of the date the decision is made; otherwise, the action shall be deemed final.

(f) If the county commission finds for the applicant, the county clerk shall issue the appropriate license or other notice conforming to the decision made by the county commission.

(Ord. No. 96-09-19.3J, § 5, 9-19-1996)

Sec. 36-100. - Exemptions.

The occupancy tax shall not apply:

(1) If a vendee:

a. Has been a permanent resident of the taxable premises for a period of at least 30 consecutive days; or

b. Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least 30 consecutive days;

(2) If the rent paid by a vendee is less than $2.00 a day;

(3) To lodging accommodations at religious, charitable, educational or philanthropic institutions, including without limitation such accommodations at summer camps operated by such institutions;

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(4) To lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;

(5) To clinics, hospitals, or other medical facilities;

(6) To privately owned and operated convalescent homes, or homes for the aged, infirm, indigent or chronically ill;

(7) If the vendor does not offer at least three rooms within or attached to a taxable premises for lodging or at least three other premises for lodging or a combination of these within the taxing jurisdiction.

(Ord. No. 96-09-19.3J, § 6, 9-19-1996; Ord. of 2-21-2002, § 1)

Sec. 36-101. - Collection of the tax and reporting procedures.

(a) Every vendor providing lodgings shall collect the tax thereon on behalf of the county and shall act as a trustee therefor.

(b) The tax shall be collected from vendees and shall be charged separately from the rent fixed by the vendor for the lodgings.

(c) Each vendor licensed under this article shall be liable to the county for the tax provided herein on the rent paid for lodging at his respective place of business.

(d) The vendor shall complete, sign and submit, together with the payment, the vendor's monthly CRS gross receipts tax form and the county lodger's tax report.

(Ord. No. 96-09-19.3J, § 7, 9-19-1996)

Sec. 36-102. - Duties of vendor.

The vendor shall maintain adequate records of facilities subject to the tax and of proceeds received for the use thereof. Such records shall be maintained in the courthouse of the county and shall be open to inspection during reasonable hours and shall be retained for three years.

(Ord. No. 96-09-19.3J, § 8, 9-19-1996)

Sec. 36-103. - Failure to pay tax; failure to make return; computation, penalty, and notice.

(a) If any vendor makes a return as required by this article without paying the tax due, he shall be liable for the tax and a penalty equal to ten percent thereof, but not less than a $10.00 penalty in addition to the tax, without notice from the county with regard thereto. Any penalty so assessed shall be added to the principle amount of the tax due; the entire balance of the tax plus penalty shall then accrue interest at the rate of one percent per month. This represents an annual percentage rate of 12 percent. Interest shall be assessed 15 days after receipt of the return, and shall be computed from the date of receipt. The county treasurer will give the delinquent vendor written notice of the estimated tax penalty and interest, mailed to the vendor's local address.

(b) If any vendor refuses or neglects to make a return and pay the tax as required by this article, the county treasurer or designee shall make an estimate based upon an examination of the vendor's books and records, or upon any information in its possession, or that may come into its period with respect to which vendor has failed to make return, and upon the basis of the estimated amount shall compute and assess the tax payable by the delinquent vendor, adding to the sum thus arrived at a penalty equal to ten percent thereof, but not less than $10.00. Any penalty so assessed shall be added to the principle amount of the tax due; the entire balance of the tax plus penalty shall then accrue interest at the rate of one percent per month. This represents an annual percentage rate of 12 percent. Interest shall be assessed 15 days after receipt of the return, and shall be computed

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from the date of receipt. The county treasurer will give the delinquent vendor written notice of the estimated tax penalty and interest, mailed to the vendor's local address.

(c) If payments are not received within 15 days of the mailing of the notice, the county treasurer may bring an action in law or equity in a court of law for the collection of any amounts due, including without limitation, penalties thereon, interest on the unpaid principle balance plus penalties at the rate of one percent per month. This represents and annual percentage rate of 12 percent. The county may attempt collection through an attorney or county attorney, and all other expenses incurred in connection therewith. Any sums so paid to an attorney or to the county attorney, and all costs and other expenses, shall accrue interest at the same rate, and in the same manner, as interest assessed on the tax-plus-penalty, and the vendor shall be liable to the county therefor. Interest shall be computed from the date of payment to the attorney or county attorney.

(Ord. No. 96-09-19.3J, § 9, 9-19-1996)

Sec. 36-104. - Refunds and credits.

If any person believes he has made payment of any lodger's tax in excess of that for which he is liable, he may claim a refund thereof by directing to the county treasurer, not later than 90 days from the date payment was made, a written claim for refund. Every claim for refund shall state the nature of the person's complaint and the affirmative relief requested. The county treasurer shall allow the claim in whole or in part or may deny it. Refunds of tax and interest erroneously paid and amounting to $100.00 or more may be made only with the approval of the county commission.

(Ord. No. 96-09-19.3J, § 10, 9-19-1996)

Sec. 36-105. - Confidentiality of return.

It is unlawful for any employee of the county to reveal to any individual other than another employee of the county any information contained in the return of any taxpayer, except to a court of competent jurisdiction in response to an order thereof in an action relating to taxes to which the county is a party, and in which the information sought is material to the inquiry; to the taxpayer himself or to his authorized representative; and in such manner, for statistical purposes, the information revealed is not identified as applicable to any individual taxpayer.

(Ord. No. 96-09-19.3J, § 11, 9-19-1996)

Sec. 36-106. - County audit.

Each vendor shall be subject to an audit, at the discretion of the county treasurer, upon reasonable notice, in order to verify the accuracy of information contained in the report required in section 36-101.

(Ord. No. 96-09-19.3J, § 12, 9-19-1996)

Sec. 36-107. - Advisory board.

(a) *Appointment of members.* The chairperson of the county board of commissioners shall appoint an advisory board of five residents of the county; two of whom are owners or operators of lodgings subject to the lodger's tax within the unincorporated areas of the county, two members who are owners or operators of industries located within the unincorporated areas of the county that primarily provide services or products to tourists, and one member who is a resident of the unincorporated area of the county shall represent the general public. The appointments shall be subject to confirmation by the board of county commissioners.

(b) *Term.* The term for all members will coincide with the county fiscal year, July 1 to June 30. Members' terms will be staggered such that there are always three members on the board who have served for

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at least one year previously. All terms will be two years from appointment. Members may serve consecutive terms at the pleasure of the county commission.

(c) *Service of members.* Members of the advisory board shall serve at the pleasure of the board of county commissioners and may be removed at anytime, with or without cause.

(d) *Replacement of members.* Upon the death, removal, resignation, change of residence from the county or inability of a member of the board to act, a vacancy on the advisory board shall exist. This vacancy shall be filled by appointment by the chairperson of the board of county commissioners for the unexpired term of such member, subject to confirmation by the board of county commissioners.

(e) *Role of advisory board.* The advisory board shall make recommendations to the board of county commissioners concerning the expenditure of the occupancy tax proceeds. The advisory board shall also prepare semiannual budgets, setting forth the amount of money collected by the county treasurer, and also setting forth all expenditures made during such semiannual period.

(f) *Open meetings.* The advisory board shall hold open meetings, pursuant to the New Mexico Open Meetings Act, and shall abide by the rules and regulations for the conduct of public meeting, as promulgated by the board of county commissioners.

(Ord. No. 96-09-19.3J, § 13, 9-19-1996)

Sec. 36-108. - Eligible uses of proceeds.

(a) A minimum of 1½ percent of the five percent tax shall be used for the purpose of advertising, publicizing, or promoting tourist attractions in the county; as well as the county fairgrounds, exposition buildings, field houses, auditoriums, welcome centers, tourist information centers, museums, performing art facilities, convention halls, and other convention activities in the county.

(b) The remaining 3½ percent of the occupancy tax may be used to defray the costs of:

(1) Collecting and otherwise administering the occupancy tax, including the performance of audits required by the Lodger's Tax Act pursuant to guidelines issued by the department of finance and administration;

(2) Establishing, operating, purchasing, constructing, otherwise acquiring, reconstructing, extending, improving, equipping, furnishing or acquiring real property or any interest in real property for the site or grounds for tourist-related facilities, attractions or transportation systems of the municipality, the county in which the municipality is located or the county.

(Ord. No. 96-09-19.3J, § 14, 9-19-1996)

Sec. 36-109. - Limitations on the use of proceeds.

The following portions of the proceeds from the occupancy tax shall be used only for advertising, publicizing, and promoting tourist-related attractions, facilities and events:

(1) If the occupancy tax imposed is more than two percent and the municipality is not located in a Class A county, or the county is not a Class A county, not less than one-half of the proceeds from the first three percent of the tax and not less than one-fourth of the proceeds from the tax in excess of three percent shall be used for these purposes.

(2) The proceeds from the occupancy tax in excess of the amount required to be used for advertising, publicizing and promoting tourist-related attractions, facilities and events may be used for any purpose authorized in NMSA 1978, § 3-38-21.

(3) The proceeds from the occupancy tax that are required to be used to advertise, publicize and promote tourist-related attractions, facilities and events shall be used within two years of the close of the fiscal year in which they were collected and shall not be accumulated beyond that date or used for any other purpose.

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(Ord. No. 96-09-19.3J, § 15, 9-19-1996)

Secs. 36-110—36-131. - Reserved.

FOOTNOTE(S):

--- (4) ---

State Law reference— Lodgers tax act, NMSA 1978, § 3-38-15. (Back)

ARTICLE VI. - FIRE PROTECTION SERVICES TAX [5]

Sec. 36-132. - Imposition of tax.

Sec. 36-133. - General provisions.

Sec. 36-134. - Specific exemptions.

Sec. 36-135. - Dedication.

Secs. 36-136—36-153. - Reserved.

Sec. 36-132. - Imposition of tax.

There is imposed on any person engaging in business in the county area outside of the boundaries of any incorporated municipality, for the privilege of engaging in business in the county area, an excise tax equal to one-fourth of one percent of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this article is pursuant to the county Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "county fire protection excise tax."

(Ord. No. 04-04-15.7A, § 1, 4-15-2004)

Sec. 36-133. - General provisions.

This article hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

(Ord. No. 04-04-15.7A, § 2, 4-15-2004)

Sec. 36-134. - Specific exemptions.

No countywide emergency communications and emergency medical services tax shall be imposed on the gross receipts arising from:

(1) Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county;

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(2) Direct broadcast satellite services.

(Ord. No. 04-04-15.7A, § 3, 4-15-2004)

Sec. 36-135. - Dedication.

Revenue from the countywide emergency communications and emergency medical services tax shall be dedicated to one or both of the following purposes:

(1) Operation of an emergency communications center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point; or

(2) Operation of emergency medical services provided by the county.

(Ord. No. 04-04-15.7A, § 4, 4-15-2004)

Secs. 36-136—36-153. - Reserved.

FOOTNOTE(S):

--- (**5**) ---

State Law reference— Fire protection services gross receipts tax, NMSA 1978, §§ 7-20E-15, 7-20E-16. (Back)

ARTICLE VII. - COUNTY EMERGENCY COMMUNICATIONS AND MEDICAL SERVICES TAX [6]

Sec. 36-154. - Imposition of tax.

Sec. 36-155. - General provisions.

Sec. 36-156. - Specific exemptions.

Sec. 36-157. - Dedication.

Sec. 36-158. - Delayed repeal.

Secs. 36-159—36-184. - Reserved.

Sec. 36-154. - Imposition of tax.

There is imposed on any person engaging in business in the county for the privilege of engaging in business in the county an excise tax equal one-fourth of one percent of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this article is pursuant to the county Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "countywide emergency communications and emergency medical services tax."

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(Ord. No. 04-04-15.7B, § 1, 4-15-2004)

Sec. 36-155. - General provisions.

This article hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

(Ord. No. 04-04-15.7B, § 2, 4-15-2004)

Sec. 36-156. - Specific exemptions.

No countywide emergency communications and emergency medical services tax shall be imposed on the gross receipts arising from:

(1) Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county;

(2) Direct broadcast satellite services.

(Ord. No. 04-04-15.7B, § 3, 4-15-2004)

Sec. 36-157. - Dedication.

Revenue from the countywide emergency communications and emergency medical services tax shall be dedicated to one or both of the following purposes:

(1) Operation of an emergency communications center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point; or

(2) Operation of emergency medical services provided by the county.

(Ord. No. 04-04-15.7B, § 4, 4-15-2004)

Sec. 36-158. - Delayed repeal.

Ordinance No. 04-04-15.7B, the ordinance from which this article is derived, is repealed effective July 1, 2014.

(Ord. No. 04-04-15.7B, § 6, 4-15-2004)

Secs. 36-159—36-184. - Reserved.

FOOTNOTE(S):

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State Law reference— Emergency communications and medical behavioral health services gross receipts tax, NMSA 1978, § 7-20E-22. (Back)

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ARTICLE VIII. - REGIONAL TRANSIT GROSS RECEIPTS TAX [7]

Sec. 36-185. - Imposition of tax.

Sec. 36-186. - General provisions.

Sec. 36-187. - Specific exemptions.

Sec. 36-188. - Dedication.

Sec. 36-185. - Imposition of tax.

There is imposed on any person engaging in business in the county for the privilege of engaging in business in the county an excise tax equal to one-eighth of one percent of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this article is pursuant to the county Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "county regional transit gross receipts tax."

(Ord. No. 08-08-07.7, § 1, 8-7-2008)

Sec. 36-186. - General provisions.

This article hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

(Ord. No. 08-08-07.7, § 2, 8-7-2008)

Sec. 36-187. - Specific exemptions.

No county regional transit gross receipts tax shall be imposed on the gross receipts arising from:

(1) Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county;

(2) Direct broadcast satellite services.

(Ord. No. 08-08-07.7, § 3, 8-7-2008)

Sec. 36-188. - Dedication.

Revenue from the county regional transit gross receipts tax will be used by the Rio Metro Regional Transit District in equal portions for the management, operations, capital, construction or maintenance of the New Mexico Rail Runner Express, and for the management, operations, capital, construction or maintenance of the Rio Metro Regional Transit District system, pursuant to the Regional Transit District Act.

(Ord. No. 08-08-07.7, § 4, 8-7-2008)

FOOTNOTE(S):

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State Law reference— County regional transit gross receipts tax, NMSA 1978, § 7-20E-23. (Back)

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Chapter 37 - RESERVED

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Chapter 38 - TRAFFIC AND VEHICLES

ARTICLE I. - IN GENERAL

ARTICLE II. - TOWING, IMPOUNDMENT, AND ABANDONED VEHICLES

ARTICLE I. - IN GENERAL

Sec. 38-1. - Enforcement of traffic regulations on private and public roads and lands.

Secs. 38-2—38-20. - Reserved.

Sec. 38-1. - Enforcement of traffic regulations on private and public roads and lands.

(a) The county manager or his designated representative may, upon application of an owner of a privately owned road open to vehicular traffic for the public, and used by the public as a thoroughfare may enter into an agreement with such owner to extend the enforcement of traffic regulations to such thoroughfare or road.

(b) The county manager's designated representative may be the county sheriff, in the sole discretion of the county manager.

(c) If the road in question is located within a subdivision with a homeowner's association, permission for traffic enforcement on the roads within the subdivision may be given by a duly organized homeowner's association by the majority vote of its board of directors.

(d) Nothing herein shall be construed to require the county to maintain or be responsible for the provision of maintenance of such thoroughfare.

(e) If a privately owned road has multiple owners, no less than 75 percent of the owners of the road must agree to allow the enforcement of traffic regulations on the road by the sheriff's office.

(f) On publicly owned lands, the county sheriff's office shall not enforce any laws unless a memorandum of understanding, a memorandum of agreement or a similar document has been entered into by and between the county and the government entity claiming ownership or responsibility for such publicly owned land.

(g) Nothing herein shall be construed to bar the sheriff's office from enforcing laws on private roads, thoroughfares or publicly owned land when an officer of the sheriff's office is in fresh pursuit, as that term is defined in state law, of an individual.

(h) Any agreement to enforce laws on private roads or thoroughfares may be terminated by the county through its authorized representative upon 30 days' notice to the homeowner's association or private individuals in an area lacking an organized homeowner's association.

(i) On publicly owned lands, each agreement to enforce laws will contain a termination clause within said agreement. Each such agreement shall be reviewed by the county attorney.

(Ord. No. 6-4-2.7, 4-20-2006)

Secs. 38-2—38-20. - Reserved.

ARTICLE II. - TOWING, IMPOUNDMENT, AND ABANDONED VEHICLES

Sec. 38-21. - Definitions.

Sec. 38-22. - Prohibition of removal and relocation.

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Sec. 38-23. - Abandoned vehicles.

Sec. 38-24. - Circumstances permitting summary vehicle impoundment or relocation.

Sec. 38-25. - Notice and procedure following summary impoundment.

Sec. 38-26. - Impoundment for investigation evidence or forfeiture.

Sec. 38-27. - Impoundment, subject to authorized tow or removal.

Sec. 38-28. - Release of vehicles; fees.

Sec. 38-21. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Impound means the towing and/or storage of a motor vehicle by a wrecker service as authorized by the county or other transport of a motor vehicle by the sheriff's department for temporary storage, pursuant to the execution of lawful police purposes.

Owner means the registered owner or owners of a vehicle as recorded with the state department of motor vehicles or similar agency of a state outside New Mexico. Where written notice to the owner is required, such notice shall be given in person or by mail to each registered owner. Where appearance of the owner is required, appearance may be made by a person authorized in writing by the owner to appear on his behalf.

Sheriff means the sheriff of Sandoval County or designated representative.

Written notice means notice shall be sent by mail, to the owner's address as provided by state motor vehicle division, files except as provided herein:

(1) When such notice is required, weekends and holidays shall not be included when calculating the time for mailing notice.

(2) When a vehicle is registered in a state outside New Mexico, the sheriff shall make all reasonable and diligent efforts to ascertain from the appropriate motor vehicle regulatory agency the name and address of all registered owners. If the name and address information for an in-state or out-of-state registered vehicle is not available soon enough to meet the time deadlines for mailing written notice, then the notice shall be mailed as soon as possible after the information is received.

(3) In lieu of a mailed notice, notice may be given by personal service or in any other reasonable manner, so long as actual notice is given within the time limits provided. Notice may be verbal to an owner who is present prior to or at the time of the towing of his vehicle, or to the driver or passenger of a vehicle, if the driver or passenger reasonably appears to have custody of the vehicle with the owner's knowledge and permission. Such notice shall be valid, however, only if the person so notified is informed in writing of the location of the storage facility where the vehicle will be stored and a phone number where the owner can obtain further information from the county.

(Ord. No. 02-10-17.10B, § I, 10-17-2002)

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Sec. 38-22. - Prohibition of removal and relocation.

It is unlawful for a sheriff's deputy, or any county employee, to remove or relocate, or cause to be removed or replaced, any unattended vehicle from any street, alley or public way within the unincorporated county limits.

(Ord. No. 02-10-17.10B, § II, 10-17-2002)

Sec. 38-23. - Abandoned vehicles.

(a) A vehicle is abandoned if:

(1) The vehicle is parked on or along any street, alley or public way and the vehicle displays no current license plate; or

(2) The vehicle is left unattended on or along any street, alley or public way in the same place for a period of 72 hours without a valid sheriff sticker as defined in subsection (b) of this section.

(b) The sheriff may issue a sticker temporarily permitting street storage, upon application of any owner or agent of an owner for any vehicle which is operable and has a current license plate. Stickers shall expire 15 days after issuance. No owner, whether an individual, business, corporation, organization, partnership or trust, is entitled to more than four stickers at any time.

(c) When a vehicle is abandoned on or along a street, alley or public way under circumstances which do not allow summary removal or relocation, a notification tag shall be attached to the vehicle in a manner which is readily visible containing the following information:

(1) The date and time the tag is affixed to the automobile;

(2) A statement that, pursuant to this section, the vehicle may be towed and stored at the owner's expense if it is not removed within ten days of the time the tag is affixed;

(3) A statement that the owner has the opportunity to challenge the proposed action at a hearing if a written request is submitted to the sheriff in a specified manner within 96 hours of the time the tag is affixed, not including weekends and county holidays;

(4) The telephone number where additional information can be obtained; and

(5) The identity of the affixing person.

(d) Written notice containing the same information specified in subsection (c) of this section plus the location and a description of the vehicle shall be mailed to the owner of the vehicle within 24 hours of affixing the notification tag pursuant to subsection (c) of this section.

(e) Upon timely receipt of a request for a hearing as defined in subsection (c)(3) of this section, the sheriff shall order a delay of towing the vehicle until after the hearing unless the vehicle is blocking a public right-of-way or creating a current dangerous condition.

(f) The hearing, if requested within the 96-hour period set forth above, shall be conducted by the director of public works or his designee. The hearing shall be held within 72 hours (excluding weekends and county holidays) of receipt of the request unless the hearing is continued with the agreement of the owner. The hearing shall be informal and not bound by the technical rules of evidence. At the request of any party a record will be made of the hearing. The hearing officer shall only determine whether the vehicle is or is not abandoned. The hearing officer shall prepare a written decision within 48 hours of the hearing (excluding weekends and holidays) and shall mail written notice of the same to the owner within five working days of the hearing.

(g) If the hearing officer determines that the vehicle is abandoned, he shall so notify the sheriff, who shall authorize towing and impoundment of the vehicle.

(h) If the vehicle is removed, the person challenging the impoundment shall be entitled to challenge the decision of the hearing officer by appeal to district court.

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(i) If the hearing is requested pursuant to subsection (f) of this section and the vehicle is not removed within 120 hours of the time the notification tag was affixed, the vehicle may be ordered impounded by a sheriff's officer who is authorized to direct traffic or enforce state or local parking or motor vehicle laws.

(Ord. No. 02-10-17.10B, § III, 10-17-2002)

Sec. 38-24. - Circumstances permitting summary vehicle impoundment or relocation.

Any sheriff's officer or county employee who is authorized to direct traffic or enforce state or local parking or motor vehicle laws, may order the impoundment of any vehicle within the county limits, without prior notice to the owner or operator thereof, under the following circumstances:

(1) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction or hazard to traffic.

(2) When any vehicle is parked or left standing upon a street, alley, or public way in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic.

(3) When any vehicle is found upon a street, alley, public way or private property, and an offense report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been stolen, and the owner is not available to, or cannot, immediately provide for its custody or removal.

(4) When any vehicle is illegally parked so as to block the entrance to a private driveway.

(5) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant, or is illegally parked in a properly designated fire lane.

(6) When the person in charge of a vehicle is by reason of physical injuries, intoxication, or illness incapacitated to such an extent as to be unable to provide for its custody or removal, or the location of the vehicle is such that a reasonable person would believe that its owner would desire its relocation or removal.

(7) When the driver or person in control of a vehicle is lawfully taken into custody by a police officer, and the person is unable to immediately provide for the custody or removal of the vehicle, and the vehicle is left as described elsewhere in this section, or the location of the vehicle is such that a reasonable person would believe that its owner would desire its relocation or removal.

(8) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the street, alley or public way, or its physical appearance is impeding traffic.

(9) Whenever the use of the street, alley or public way or any portion thereof is authorized by the county for the purpose other than the normal flow of traffic or the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use of movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal.

(10) When any vehicle is parked or left standing where prohibited by ordinance or other state or local law. No vehicle may be removed pursuant to section 38-23, unless signs are posted giving notice of its removal at least 24 hours prior to the removal.

(11) When any vehicle is parked or standing in a manner so as to obstruct necessary emergency services, or the routing of traffic at the scene of a disaster or removal is otherwise necessary in the interest of public safety because of any emergency, and moving the vehicle to a legal parking location is impractical. However, the owner or operator of a vehicle so relocated or removed shall not be subject to any relocation, removal or storage charges, if the vehicle is otherwise lawfully parked. Such charges shall be paid by the county, except that in the case of

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emergency utility repairs when such charges shall be paid in advance by the utility company seeking removal.

(12) When a vehicle is parked, left unattended or abandoned during a fire, flood, storm or other public emergency which is apt to cause substantial damage to the vehicle, removal is in the best interest of the owner, and moving the vehicle to a safe location is impractical.

(13) When a vehicle is either unattended or disabled and loaded with either a dangerous, flammable, combustible or explosive substance which, either by its presence or load conditions is likely to harm the health or safety of the public and moving the vehicle to a safe, legal location is impractical.

(14) When any vehicle is parked in such a manner as to obstruct or interfere with any road, sidewalk or right-of-way maintenance or construction, or any non-emergency utility work, and it is impractical to relocate the vehicle to another point where parking is legal. No vehicle shall be removed unless signs are posted giving notice of the work to be done and the possibility of removal at least 24 hours prior to the removal.

(15) When a vehicle is being driven in an unsafe manner under the state law due to one of the following:

a. Failure to have insurance on the vehicle as required under state law and as documented by one of the following:

1. An admission by the driver or other occupant of the vehicle;

2. Confirmation through the state department of motor vehicle records showing a prior citation for failure to have insurance within the past six months;

3. Confirmation by the citing officer that the insurance company driver claims covers the vehicle does not in fact insure it;

b. Failure to have a driver's license as shown by state department of motor vehicle records; or

c. Driving when the driver's license has been suspended or revoked as shown by state department of motor vehicle records.

(Ord. No. 02-10-17.10B, § IV, 10-17-2002)

Sec. 38-25. - Notice and procedure following summary impoundment.

(a) Immediately after a vehicle is towed under section 38-24, the sheriff shall promptly notify the director of public works, who shall within 24 hours of towing send written notice to the owner of the removal of the vehicle.

(b) The notice shall contain information to be designated by the sheriff, which shall include the following:

(1) The license plate number, make, type and color of the vehicle;

(2) The former location of the vehicle;

(3) A statement that the vehicle has been taken into custody and stored;

(4) The reason for the impoundment;

(5) The location and telephone number of the storage facility where the vehicle is being kept;

(6) A statement that daily storage charges will be assessed in addition to a towing charge;

(7) A statement that the owner may obtain release of the vehicle by paying the charges in full to the storage facility;

(8) A statement that the owner has the right to contest the validity of the impoundment by requesting a hearing in writing within ten days of mailing of the notice;

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(9) A statement that failure to obtain release of the vehicle will cause it to be sold or otherwise disposed of in accordance with state law;

(10) A phone number and name or title of a county employee from whom the owner can obtain further information.

(c) The hearing officer's decision shall be limited to:

(1) Whether the vehicle was lawfully impounded for one or more of the reasons set forth herein.

(2) Whether the vehicle, although lawfully impounded, should be released at the county's expense.

(d) The decision of the hearing officer may be challenged by filing a notice of appeal with the district court as provided by law. The owner shall have the burden of proving that the hearing officer's decision is unsupported by the evidence. The hearing officer shall determine whether or not the vehicle was lawfully impounded or should otherwise be released at the county's expense, and may substitute judgment for that of the hearing officer.

(e) If the district court finds the vehicle in question was not lawfully impounded or the vehicle should otherwise be released at the county's expense, the authorized garage having custody of the vehicle shall release the vehicle to its owner and towing and storage fees shall be paid by the county in accordance with arrangements to be made between the county and authorized garages. If the owner fails to present such certificate to the authorized garage having custody of the vehicle within 24 hours of its receipt, excluding days when the garage is not open for business, the owner shall assume liability for all subsequent storage charges. The certificate shall advise the owner of such requirement.

(f) In lieu of towing and impoundment by a sheriff's deputy, or any county employee who is authorized to direct traffic or enforce state or local parking or motor vehicle laws, the county may relocate or cause to be relocated any vehicle from any street, alley or public way within the county limits, without prior notice to the owner or operator thereof when the relocation is to a safe, legal location, is practical without the use of a wrecker and the vehicle is found under the circumstances set forth above.

(g) Whenever a vehicle could be impounded or removed, and the driver of the vehicle is present, the deputy or authorized employee may order the driver to move the vehicle to another location.

(h) Whenever a sign is required to give notice of the possibility of removal of a vehicle, such sign shall:

(1) State that the area is a tow-way zone, or that violations of the restrictions stated on the sign may result in towing; and

(2) Be readily visible from the point of removal.

(Ord. No. 02-10-17.10B, § V, 10-17-2002)

Sec. 38-26. - Impoundment for investigation evidence or forfeiture.

The notice, hearing and bond provisions set forth herein shall not apply to impoundment of the following vehicles, which impoundment is hereby authorized:

(1) A vehicle which is impounded for purposes of a criminal investigation or as evidence of a crime; or

(2) A vehicle which is lawfully seized pursuant to state or federal law.

(Ord. No. 02-10-17.10B, § VI, 10-17-2002)

Sec. 38-27. - Impoundment, subject to authorized tow or removal.

(a) Any vehicle impounded shall be towed, in accordance with state and local law, to an authorized storage facility or an area designated or maintained by the sheriff's department or by this county. The

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sheriff's department member authorizing impoundment shall obtain a receipt from the wrecker service to which such vehicle is delivered indicating the date, hour and place of delivery and the identification of the vehicle. In the event such vehicle is stored in a public garage, the sheriff's department member shall issue signed and dated instructions in writing to the garage (or wrecker) specifically stating whether the vehicle is to be held for investigation or as evidence, or as the subject of forfeiture proceedings, or whether it may be released to the owner after all attendant charges have been satisfied.

(b) If any vehicle is about to be removed or is in the process of being removed from such street and the owner thereof or his agent appears and claims the vehicle and agrees to immediately remove it from such street, such vehicle shall be delivered to such owner or agent upon demand therefor and upon furnishing satisfactory evidence of identity and ownership or agency. If any such owner or agent shall fail, refuse or neglect to forthwith remove such vehicle, such vehicle shall nevertheless be removed and impounded. Removal by such owner or agent shall not relieve the offender of liability for any towing costs already incurred or for any fine or penalty for the violation of any law or ordinance for which the vehicle was to be removed.

(Ord. No. 02-10-17.10B, § VII, 10-17-2002)

Sec. 38-28. - Release of vehicles; fees.

(a) The director of public works or his designated representative shall order release of an impounded vehicle at the county's expense upon presentation to the garage of impoundment, proof of ownership, and a certificate of release from the county's hearing officer, presented within 24 hours after its receipt. If the vehicle is not removed within one working day of such an order, additional charges shall be borne by the owner.

(b) In all other cases, upon proof of ownership and certification from the sheriff that the vehicle is insured as required under state law, an impounded vehicle shall be released only after direct payment of the accumulated impoundment fees by the owner or the owner's designee. The sheriff will provide such certification upon receiving proof that the vehicle is insured as required under state law.

(c) An owner who desires a hearing on the validity of an impoundment shall request, and the garage shall issue, a receipt for the amount paid in satisfaction of impoundment charges.

(1) The owner shall forfeit the amount paid if: the owner fails to appear at the hearing before the county's hearing officer or, in the case of an appeal, before the court, or if it is finally determined, after the hearing or appeal, that the impoundment was valid.

(2) The owner shall be entitled to reimbursement from the county for the full amount paid upon presentation of the receipt required herein if, after hearing and appeal, if any, it is determined that the impoundment was not valid.

(d) This article does not authorize release of any vehicle held for investigation or as evidence of a crime or seized pursuant to state or federal law. Such vehicle shall be released only upon the written order of the sheriff's deputy responsible for its impoundment or upon an affirmative written statement by the sheriff that such vehicle is no longer needed for investigative or evidentiary purposes or for forfeiture proceedings. The county shall bear the cost of towing and storage for such impoundments if the owner or any person operating the vehicle with his permission was not involved in any criminal activity that was any part of the reason for the impoundment. The burden of proving such lack of involvement shall be upon the person claiming it. The sheriff or his designee may execute a certificate of release.

(Ord. No. 02-10-17.10B, § VIII, 10-17-2002)

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Chapter 39 - RESERVED

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Chapter 40 - ZONING [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - PLANNING AND ZONING COMMISSION

FOOTNOTE(S):

--- (1) ---

State Law reference— Board of commissioners, authority for zoning, NMSA 1978, § 3-21-1 et seq. (Back)

ARTICLE I. - IN GENERAL

Secs. 40-1—40-18. - Reserved.

Secs. 40-1—40-18. - Reserved.

ARTICLE II. - PLANNING AND ZONING COMMISSION

Sec. 40-19. - Purpose.

Sec. 40-20. - Planning and zoning commission.

Sec. 40-21. - Powers and duties.

Sec. 40-22. - Organization.

Sec. 40-19. - Purpose.

The purpose of this article is to prescribe the powers, duties, and organization of that body of appointed officials known as the county planning and zoning commission.

(Ord. No. 10-1-21.9F, § 1, 1-21-2010)

Sec. 40-20. - Planning and zoning commission.

(a) The board of county commissioners has appointed a planning and zoning commission (hereinafter "planning and zoning commission") for the county, pursuant to the authority granted by NMSA 1978, §§ 3-21-7, 4-37-1, and 4-57-1 et seq.

(b) Membership and terms.

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(1) The planning and zoning commission shall consist of seven members. The members shall be appointed by the board of county commissioners by commission districts as follows:

a. Two members from Commission District 1;

b. Two members from Commission District 5; and

c. One member each from Commission Districts 2, 3 and 4.

(2) Planning and zoning commissioners shall be residents of the county and of the commission district from which appointed and shall not be employees of the county. The members shall serve staggered terms of two years in order that there will be an overlapping of tenures with terms of four members expiring during each even-numbered year and the terms of three members expiring during each odd-numbered year.

(3) An incumbent member shall serve the full term unless he resigns or is removed for cause under the terms of this article. When a vacancy occurs due to the expiration of the term of a member, that incumbent member shall serve until reappointed or replaced under the terms of this section. Vacancies shall be filled by appointment of the board of county commissioners upon recommendation of the commissioner within whose commission district the vacancy occurs. If the commissioner fails to make a recommendation within 60 days after the vacancy occurs, the board of county commissioners shall appoint an individual to fill that vacancy as quickly as possible. On such occasions, it is preferable the appointees of the board reside within the commission district that has the vacancy. However, the vacancy may be filled by any suitable candidate residing in the county.

(4) Members may be removed for cause stated in writing, including, but not limited to, frequent unexcused absences. Members shall be removed by a majority vote of the board of county commissioners following a public hearing.

(c) The planning and zoning commission shall have available to it the assistance of the staff of the county development division and the county attorney.

(Ord. No. 10-1-21.9F, § 2, 1-21-2010)

Sec. 40-21. - Powers and duties.

The planning and zoning commission shall have such powers and duties as may be delegated to it by the board of county commissioners, which include the following:

(1) The planning and zoning commission shall promote a comprehensive planning process with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the county.

(2) The planning and zoning commission shall make careful and comprehensive surveys and studies of existing conditions and probable future growth of the county and shall make recommendations on means of protecting and improving the environment.

(3) The planning and zoning commission shall review applications for approval of subdivisions of land as prescribed in the county subdivision regulations.

(4) The planning and zoning commission may recommend to the board of county commissioners programs for public improvements and their financing.

(5) The planning and zoning commission shall have those powers and duties related to zoning and land use applications as specified in the county's comprehensive zoning ordinance, found in appendix A to this Code.

(6) The planning and zoning commission shall have such power, authority, jurisdiction, and duty incidental and necessary to carry out the purpose of NMSA 1978, §§ 3-21-1 through 3-21-14.

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(7) The planning and zoning commission is authorized to confer with communities, municipalities, tribal governments, other counties, regional, state, or federal agencies as it deems necessary.

(8) The planning and zoning commission shall have the right to request the appointment of a regional planning board to assist the planning and zoning commission in the development of an area plan. Such board, when appointed shall consist of not more than seven or less than five members. When a regional planning board is made up of seven members, two members shall be appointed from the planning and zoning commission membership. Where a regional planning board is made up of five members, one member shall be appointed from the planning and zoning commission.

(Ord. No. 10-1-21.9F, § 3, 1-21-2010)

Sec. 40-22. - Organization.

(a) *Officers.* The planning and zoning commission shall elect from its members a chairperson and a vice-chairperson for one-year terms. Officers may be reelected for an indefinite number of terms.

(b) *Conduct of business.* The planning and zoning commission shall adopt and publish such rules, regulations, and procedures for the conduct of business as deemed appropriate by its members. A quorum shall be a majority of the membership of the planning and zoning commission.

(c) *Meetings.* The planning and zoning commission shall hold regularly scheduled meetings at least once a month, and such meetings will be open to the public and shall be held in accordance with the Open Meetings Act. The planning and zoning commission may hold special meetings as may be called by the chairperson or vice-chairperson with at least 24 hours public notice, and in accordance with the Open Meetings Act, cited in this subsection.

(d) *Public record.* A public record shall be kept of all actions and considerations undertaken by the planning and zoning commission and any district planning board. The records shall be maintained by the county development department and kept available for public inspection in the county development department during normal office hours.

(Ord. No. 10-1-21.9F, § 4, 1-21-2010)

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Appendix A - ZONING ORDINANCE [1]

ORDINANCE NO. 10-11-18.7A

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS AND ZONING MAPS FOR SANDOVAL COUNTY, NEW MEXICO, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANDOVAL COUNTY:

[ARTICLE I. - IN GENERAL]

ARTICLE II. - SIGNS

ARTICLE III. - WIRELESS TELECOMMUNICATIONS FACILITIES

FOOTNOTE(S):

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Editor's note— Printed herein as article I is Ordinance No. 10-11-18.7A, originally recorded as Doc. 2010028894 on November 19, 2010. It has been re-recorded to include the Ordinance number, adoption date and effective date. Also included in this appendix, as articles II and III, are the county's sign ordinance, Ordinance No. 03-09-04.12A, adopted September 4, 2003, and the county's regulations regarding wireless telecommunications facilities, Ordinance No. 03-10-16-11A, adopted October 16, 2003. Amendments to article I are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinances. Articles II and III have history notes indicating sections of the original ordinances from which they are derived. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of citation to state statutes as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets. (Back)

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Sec. 1. - Title.

These regulations shall be known as the "COMPREHENSIVE ZONING ORDINANCE OF SANDOVAL COUNTY, NEW MEXICO" and shall be referred to herein as "this Ordinance."

Sec. 2. - Purpose.

The provisions of this Ordinance are designed to promote health and the general welfare of the County; to secure safety from fire, flood, and other dangers; to protect local water resources; to facilitate adequate provisions for transportation, water and wastewater systems, schools, parks and other community requirements; to conserve the value of property; and to provide for the compatible development of land and other natural resources in Sandoval County.

The purpose of this Ordinance is to best accommodate the growth of Sandoval County with reasonable regulations, while at the same time promoting development in the County that is beneficial to its citizens in a manner that protects the County's natural resources, protects the quality of life of its citizens, and simplifies the application process for the public. This Ordinance provides for orderly, compatible, and prudent development in accordance with the County's Comprehensive Plan and any other applicable land use plans that may be hereafter adopted by the County. It is the intention of the Board in adopting and enforcing this Ordinance to exercise all relevant powers conferred on it by the laws of the State of New Mexico, including where applicable, but not limited to, the following sections of NMSA 1978 as they may be amended:

- 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);
- Sections 4-57-1 through 4-57-3 (planning for the purpose of guiding development);
- Sections 47-6-1 through 47-6-29 (subdivision);
- Sections 47-5-1 through 47-5-8 (land subdivision);
- Section 3-18-6 (building construction);
- Section 3-18-7 (floodprone areas);
- Section 3-18-10 (sanitary facilities);
- Sections 3-19-1 through 3-19-12 (planning and platting);
- Sections 3-21-1 through 3-21-14 (zoning);
- Sections 3-22-1 through 3-22-5 (historic district zoning);

- Sections 3-39-16 through 3-39-27 (airport zoning);
- Section 3-49-1 (streets);
- Sections 3-53-1 through 3-53-5 (water use and water facilities).

Sec. 3. - Jurisdiction.

A. *Jurisdiction.* This Ordinance is intended to and shall apply to all the territory within the County to the full extent of the jurisdiction permitted by NMSA 1978, § 3-21-2, excepting only such areas as are now within:

1. The zoning jurisdiction of an incorporated municipality, whether such municipal jurisdiction is being exercised or not; or
2. The concurrent zoning jurisdiction of the County and an incorporated municipality, provided such concurrent jurisdiction is being exercised under an existing extraterritorial authority or agreement.

B. *Increases in Territory Subject to Jurisdiction.* This Ordinance shall apply automatically to all territory that may hereafter come within the County's zoning jurisdiction. All such territory shall be automatically classified within the Rural Residential/Agricultural (RRA) District until reclassified pursuant to this Ordinance.

C. *Decreases in Territory Subject to Jurisdiction.* This Ordinance shall cease to apply as to any territory that may hereafter come within:

(a) The zoning jurisdiction of an incorporated municipality; or

(b) The exercised jurisdiction of a concurrent extraterritorial zoning authority or agreement.

Sec. 4. - Application.

No structure shall be constructed, placed, or maintained, and no land use commenced or continued within the zoning jurisdiction of the County except as authorized by this Ordinance. Any use not designated as permissive or conditional within a particular zone district is prohibited from that zone district, except as otherwise provided in this Ordinance.

Sec. 5. - Interpretation.

The provisions of this Ordinance are held to be minimum requirements to carry out the purpose of this Ordinance and are not intended to interfere with any other laws, covenants, or ordinances. Whenever any provisions of this Ordinance are more or less restrictive than other laws, covenants, or ordinances, then whichever is more restrictive shall govern.

Sec. 6. - Definitions.

A. *Word Forms.* Words used in the present tense include the future tense, and words used in the future tense include the present tense; the singular number includes the plural number, and the plural number includes the singular number. The words "shall" and "must" are mandatory, and the word "may" is permissive.

B. *Definitions.* The following definitions apply to this Ordinance:

1. "*Accessory Structure*" means a structure that is incidental and subordinate to the principal use of a lot or structure. The term "accessory structure" does not include any structure that is within the definition of a "dwelling unit."

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2. "*Accessory Use*" means use of a structure or lot that is incidental and subordinate to the principal use of a lot or a structure.

3. "*Acequia*" is an ancient form of irrigation and is also the community of farmers and ranchers that cooperatively maintain the irrigation system.

4. "*Adult Bookstore*" means an establishment:

   a. Having a substantial portion of its stock in trade, books, magazines and other periodicals depicting, describing or relating to "specified sexual activities" or which are characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas"; or

   b. Having as a substantial portion of it stock in trade, books, magazines and other periodicals and which excludes all minors from the premises or a section thereof.

5. "*Adult Theater*" means an enclosed theater regularly used for presenting any film or tape designed to be projected on a screen for exhibition and which regularly excludes all minors.

6. "*Adult Live Entertainment Establishment*" means an establishment which features dancers, go-go dancers, strippers, or other similar entertainers, any of whom perform topless and/or bottomless.

7. "*Agricultural Activities*" means the cultivation and harvesting of croplands, and the raising, breeding, and management of livestock, but does not include commercial feedlots, dairies, and animal slaughter houses.

8. "*Amended Application*" means an application that reflects any changes from the previous application on the same parcel or tract. Any substantive changes to an application will require re-submittal of the entire application. Substantive changes will be determined in the sole discretion of the Zoning Officer, but are generally defined as a change that affects the use or placement of the proposed use on the land or any mandatory items of the previous application. Non-substantive changes are such items as a correction of clerical or typographical error(s).

9. "*Amendment, Legislative*" means an amendment to the Comprehensive Zoning Ordinance to establish or change a specific policy related to uses, criteria, procedure or other Ordinance provisions of substantial general applicability. A legislative amendment may apply to the Official Zone Maps or text of this Ordinance.

10. "*Amendment, Quasi-Judicial Zone Map*" means an amendment changing any portion of an Official Zone Map from one zone designation to another. Such an amendment applies to a specific lot or lots and results in the realignment of zone district boundaries.

11. "*Boarding, Rooming, or Lodginghouse*" means a building other than a hotel or restaurant where lodging, with or without meals, is provided for compensation. This definition includes a "Bed and Breakfast" enterprise.

12. "*Brow*" means the point at which the natural vegetation of a slope intersects with the disturbed excavated grade for the purpose of the construction of a residential or nonresidential structure.

13. "*Building*" means a structure having a roof supported by columns or walls built for the support, shelter, or enclosure of persons, animals, or property.

14. "*Building Height*" means the vertical distance measured from the lowest natural grade adjacent to the structure (including garages) to the highest point on the building (not including chimneys and appurtenances).

15. "*Club*" means an association of persons (whether or not incorporated), religious or otherwise, for social purpose, but not including groups, which are organized primarily to render a service carried on as a business for profit.

16. "*Cluster Housing Development*" means a form of development that permits a reduction in lot area requirements below what would ordinarily be required, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of

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development, unless otherwise permitted by a policy adopted as part of an Area Plan or Master Plan. The remaining land area, known as Common Open Space, shall be devoted in perpetuity to open space, active recreation, or preservation of environmentally sensitive areas, wildlife corridors, or agriculture.

17. "*Common Open Space*" means that portion of a Cluster Housing Development that is devoted in perpetuity to open space, active recreation, or preservation of environmentally sensitive areas or agriculture, or otherwise left in an unimproved state. Unless specifically stated otherwise, Common Open Space shall not be open for use by the public.

18. "*Community Residential Care Facility*" means any congregate residence, maternity shelter or building for persons, which provides and whose primary purpose is to provide the residents, within the facility, either directly or through contract services, programmatic services, room, board, assistance with the activities of daily living, in accordance with the program narrative, and/or general supervision of two or more adults who have difficulty living independently or managing their own affairs. Community Residential Care Facility does not include facilities for persons currently in custody of, or recently released by, correctional authorities that are designed to offer an alternative to imprisonment and/or facilitate ex-offender reintegration into community life, nor does it include facilities for persons who require such services by reason of the effects of alcohol or drug use. Community Residential Care Facility does include facilities for recovering alcohol or drug abusers.

19. "*Conditional Use*" means a use that may be or become a nuisance or hazard to neighboring properties if proper safeguards are not taken. Such uses require individual review and approval by the Zoning Commission.

20. "*County*" means Sandoval County, New Mexico.

21. "*County Board*" means the Board of County Commissioners of Sandoval County, New Mexico.

22. "*Dwelling Unit*" means a structure, part of a structure, mobile home, modular home, or manufactured home that is designed for residential occupancy by one family that contains one or more connected rooms and a single kitchen. The term "dwelling unit" does not include recreational vehicles.

23. "*Dwelling Unit, Singular*" means a dwelling unit that is not physically connected to any other dwelling unit as part of a single structure.

24. "*Dwelling Unit, Multiple*" means a structure containing two or more dwelling units.

25. "*Entertainment*" means an engaging or diverting presentation of, or participation in, including but not limited to, live singing, dancing, musical instrumentation, dramatic, prosaic, or poetic activities, but excluding adult live entertainment.

26. "*Family*" means one or more persons residing together in a dwelling unit, provided that unless all members are related by blood, marriage, adoption, or legal assignment, no such family shall include or contain more than five unrelated persons.

27. "*Family Child Care Home Facility*" means a private residence in which care, services and supervision is provided to a maximum of 12 children for a period of less than 24 hours of any given day. The licensee will reside in the home and be the primary caregiver.

28. "*Family Cluster Development*" means a grouping of singular dwelling units on a single lot that, at the time of application for Conditional Use and thereafter, must meet the following criteria:

    a. All residents must be immediate family members as defined by this Ordinance;

    b. The development must comply with all applicable requirements of the New Mexico Environment Department or its succeeding agency;

    c. The maximum residential density of the development shall not exceed that otherwise permitted under this Ordinance; and

    d. The development must comply with any other applicable provisions of this Ordinance

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29. "*Feedlot, Commercial,*" means a place of fulltime confinement of livestock that are corralled, penned, or otherwise caused to remain in pens or corrals where feeding is other than grazing and which is operated as a commercial enterprise as the primary use. Temporary confinement of the above referenced animals that is normally associated with a ranching operation does not make such an operation a commercial feedlot for purposes of this Ordinance.

30. "*Floor Area*" means the total area of all floors of a building.

31. "*Floor Area Ratio*" means the relationship of the floor area to the lot area, computed by dividing the floor area by the lot area.

32. "*Group Home*" means a dwelling unit occupied by two or more single persons or families consisting of common space and/or facilities for group use by the occupants of the unit, and (except in case of shared one bedroom units) separate private space for each family. It also includes group housing for elderly or disabled persons. Supportive services may be provided. These structures are usually large single-family units that are being used for this purpose.

33. "*Group Homes, conditional*" means a Group Home that serves residents who are not in a protected class and which is a conditional use in every zone district.

34. "*Group Homes, permissive*" means a Group Home that serves residents who are in a protected class and which is a permissive residential use in every zone district if the residents are protected persons. "Protected persons" are unrelated persons who live together in a family-like manner and who have been given protected status under such Federal laws as the Americans with Disabilities Act ("ADA"); the Amended Americans with Disabilities Act of 2009 ("AADA"); the Fair Housing Act ("FHA"), the Civil Rights Act of 1964 and all amendments thereto; the Older Americans Act and all other State and Federal Acts and case law interpreting those acts. These laws extend protections to persons who may be considered disabled under the law and persons who have a protected status under the State and Federal Constitutions. Persons who live in such group homes are considered "families" under the law and Sandoval County is required to make reasonable accommodations to such persons. Under no circumstances are group homes for disabled persons considered a commercial use. There is no minimum or maximum number of residents for permissive group homes, except as determined by the applicable agencies of the State of New Mexico or of Sandoval County, including but not limited to the NM Department of Health; the Sandoval County Fire Department and the New Mexico Environment Department.

35. "*Guest House*" means a structure which is on the same lot with and is accessory to a primary singular dwelling unit and which is available on a complimentary basis for temporary and occasional occupancy by either family or non-family members, and shall not be rented or leased separate from the main residence.

36. "*Habitability*" means the conditions of a building, being free from defects that might harm the health and safety of the person(s) inhabiting the dwelling.

37. "*Home Occupation*" means a business activity performed on the premises of a residence by one or more resident family members where such business activity is secondary and subordinate to the residential use of the premises. A Home Occupation shall have:

    (a) No more than one non-resident employee on the premises at any given time;

    (b) No business traffic, vehicular or pedestrian, to the premises that exceeds traffic customary for a single-family residence;

    (c) No business equipment and/or supplies visible from outside the lot lines of the residence;

    (d) No noise or other forms of trespass associated with the business that exceeds that normally associated with a residence; and

    (e) No more than one non-illuminated sign of not more than four square feet in face area.

38. "*Hotel/Motel*" means a structure, other than a boardinghouse as defined herein, which contains more than five guest rooms.

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39. "*Immediate Family Members*" means husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew and niece, related by natural birth or adoption.

40. "*In-Laws Quarters*" means a structure used to house family members for any length of time, and requiring kitchen facilities similar to the primary dwelling unit, may not be rented separate from primary dwelling.

41. "*Liquid Waste Disposal Regulations*" means the Liquid Waste Disposal Regulations adopted by the Environmental Improvement Board of New Mexico and administered by the New Mexico Environment Department.

42. "*Livestock*" means all domestic or domesticated animals that by custom and practice in New Mexico have been used or raised on a farm or ranch for agricultural purposes and including horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, llamas, rheas, camelids, farmed cervidae, and similar animals, including exotic animals in captivity. "Livestock" does not include caninc or feline animals, or any animals not actually used for agricultural purposes.

43. "*Lot*" means a parcel or tract of land, platted and/or placed on the County Clerk's record in compliance with applicable statutes and ordinances, and with frontage or legally approved access to [a] public right-of-way. Whenever a parcel or tract of land is traversed by a public right-of-way it will be considered as two lots for purposes of this Ordinance.

44. "*Manufactured Housing*" means a manufactured home or modular home that is a single-family dwelling with a heated area of at least [36] by [24] feet, constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards act of 1974 (42 USC 5401 et seq.) and the Housing and Urban Development Zone Code II or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with Manufactured Housing Act (Chapter 60, Article 14, NMSA 1978), and with the regulations made pursuant thereto relating to ground level installation and ground anchors.

45. "*Massage Parlor*" means an office staffed by a massage therapists licensed by the State of New Mexico for the treatment of soft tissues for therapeutic purposes, primarily comfort and relief of pain; it is a health care service that includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, stretching the tissue and exercising the range of motion and may include the use of oils, salt glows, hot or cold packs or hydrotherapy. Synonymous terms for massage therapy include, massage, therapeutic massage, body massage, myomassage, bodywork, body rub, or any derivation of those terms. "Massage therapy" does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic, physical therapy, occupational therapy, acupuncture or podiatry is required by law.

46. "*Mixed Use*" means any proposed development that envisions or requests a variety of uses of land, including a proposed use that contains undesignated lots or parcels.

47. "*Mobile Home*" means a moveable or portable structure larger than forty (40) feet in body length, eight (8) feet in width or eleven feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes that is not constructed to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2, as amended to the date of the unit's construction.

48. "*Mobile Home Park*" means any lot on which two or more mobile/manufactured homes are used for human habitation for 30 days or more, except as otherwise provided for in this Ordinance.

49. "*Model Home*" means any furnished dwelling which is primarily used as a marketing tool to show prospective homebuyers a particular plan, type of construction, accoutrements or floor

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plan, and which is not a residence at the same time. A sales office need not be physically located in the dwelling.

50. "*Multi-Section Manufactured Home*" means a manufactured home or modular home that is a single-family dwelling with a heated area of at least 36 by 24 feet and at least 864 square feet, and is constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations.

51. "*Nonconformities*" are any structures or portions thereof, or uses of any land or structures, or lots, or setbacks which do not conform to the regulations of this Ordinance but that lawfully existed on and prior to the effective date of the regulations to which it does not conform. The term "nonconformities" does not include any lot, structure, or use of any structure or lot that, at the relevant time, did not conform to or was not exempt from then effective zoning regulations.

52. "*Overburden*" means excess consolidated or unconsolidated materials of any nature extracted from or during the excavation and grading preparation of a building site.

53. "*Overlay Zone*" means a zone district placed over another zone district or districts for the purpose of imposing special requirements in addition to those of the underlying zone. Development within the overlay zone must conform to the requirements of both zone districts or to the more restrictive of the two zone districts.

54. "*Permissive Use*" means a use that is allowed in a particular zone district.

55. "*Plane of a Slope*" means an imaginary parallel line, offset ten feet from a slope equal to or greater than twenty percent (20%).

56. "*Planned Commercial Development*" means an area of nonresidential uses or a mixture of residential and nonresidential uses proposed for a single lot or group of lots that are contiguous to one another or that are part of a development that is known, designated, or advertised as a common unit or by a common name. This does not include agricultural activities as defined by this Ordinance.

57. "*Recreational Vehicle*" means a motor vehicle primarily designed as temporary living quarters for recreational camping, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, including but not limited to, a travel trailer, camping trailer, truck camper, or motor home. Recreational vehicles may neither exceed a width of 8 feet or a length of 40 feet. Such vehicles are regulated by the Motor Vehicle Division of the State of New Mexico. A recreational vehicle does not qualify as a mobile/manufactured home, whether or not it is properly registered with the Motor Vehicle Division.

58. "*Residential Density, Gross,*" means the number of dwelling units per acre, calculated by dividing the total number of dwelling units in a development by the total area of that portion of the development site devoted to residential use, including the area occupied by roadways within those residential areas.

59. "*Residential Density, Net,*" means the number of dwelling units per acre, calculated by dividing the total number of dwelling units in a development by the total area of that portion of the development site devoted to residential use, excluding any area occupied by roadways within those residential areas.

60. "*Ridge Top*" means the highest point in elevation that includes the prominently visible portion of a hill or mountain that sits above an area having an average slope equal to or greater than twenty percent (20%) on one or more sides.

61. "*Setback*" means the minimum allowable horizontal distance between a structure and every road or lot boundary line as measured perpendicularly from the edge of the road right-of-way or lot boundary line to the structure. Setbacks are intended to ensure that fire and rescue and other emergency personnel have full access to all sides of all buildings and structures, and to

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ensure that vehicles associated with the use are not parked in the road or street. The Zoning Officer shall exercise reasonable discretion in determining any setback issue, as in situations with irregularly shaped or corner lots. The Zoning Officer's decision regarding any setback issue may be appealed to the County Board.

62. "*Setback, Front,*" means the minimum allowable distance between a structure and the:

    (1) Primary access road right-of-way; or

    (2) Lot boundary line that borders on the primary access to the lot.

63. "*Setback, Rear,*" means the minimum allowable distance between a structure and the boundary or property line of the lot, upon which such structure is located, which is opposite and most distant from the primary access to the lot and that does not intersect with the primary access to the lot.

64. "*Setback, Side,*" means the minimum allowable distance between a structure and the boundary or property line of the lot, upon which such structure is located, that intersects with a road or street.

65. "*Slope*" means the ratio of the vertical change to the horizontal change of land between two points on a line.

66. "*Special Event*" means any event (Private or Commercial) that scheduled, does not occur on a regular time interval; this includes but is not limited to: Parades, Marathons, Concerts, large parties or gatherings, Movie productions, Sporting events, Pyrotechnic Events, or events that change a traffic pattern (to include parking).

67. "*Specified Anatomical Areas*" means the areas that depict, describe or relate to: Less than completely and opaquely covered: Human genitals, pubic region; Buttock; and that portion of the female breast constituting the nipple and areola (the darkly pigmented portion of the breast encircling the nipple); Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

68. "*Specified Sexual Activities*" means activities that depict, describe, or relate to:

    a. Human genitals in a state of sexual stimulation or arousal.

    b. Acts of human masturbation, sexual intercourse or sodomy.

    c. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

69. "*Structure*" means a building or anything else constructed or erected above ground, which requires location on the ground or is attached to something having a location on the ground. For purposes of this Ordinance, the term "structure" does not include a vehicle, vegetation, public utility poles, walls and fences.

70. "*Travel Trailer or Recreational Vehicle Park*" means an area of land used for transient commercial parking of occupied travel trailers, pick-up campers, converted buses, recreational vehicles, tents, or any other similar devices used for temporary portable housing, which are not permanently connected to utilities.

71. "*Variance*" means a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary hardship. As used in this Ordinance, a variance may be authorized only for area, dimension, distance, setback, off-street parking, and off-street loading requirements. Financial gain or loss shall not be the determining factor in deciding a variance.

72. "*Video Arcade*" means an establishment having six or more coin-operated devices for the amusement and entertainment of its patrons.

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73. "*Winery*" means an agricultural processing facility operated in accordance with all Federal, State, and local regulations, used for the purpose of processing grapes or other fruit grown on the property or off-site, to produce wine. Processing includes crushing, fermenting, blending, aging, storage, bottling, and any other processes associated with winemaking. Also included are administrative functions, wholesale sales, tasting facilities, and retail sales of wine by the bottle, by the case, and by the glass. Sales of wine related items are permissible, including foods prepared off-site, wine glasses, accessories, reference books, decorative arts, and insignia clothing. Sales may take place during hours when the winery is open to the public and during events as prescribed by this Ordinance. Special events may periodically occur as regulated by Section 21 of this Ordinance.

74. "*Zoning Commission*" means the Sandoval County Planning and Zoning Commission.

75. "*Zoning Officer*" means the Planning and Zoning Director and/or his/her designee.

Sec. 7. - General Provisions.

The following general provisions apply to all zone districts:

A. *Access to Structures.* All structures shall be located on lots such that safe and convenient access is provided for servicing, fire protection, police protection, and any required off-street parking or loading.

B. *Mobile/Manufactured/Modular Housing Installation.* No mobile, manufactured or modular house shall be occupied unless it is connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored to standards equivalent to and/or in accordance with regulations established pursuant to the Manufactured Housing Act of New Mexico, NMSA 1978, §§ 60-14-1 to 60-14-20.

C. *Solid Waste Disposal.* All persons owning or occupying lands within Sandoval County shall be responsible for the sanitary conditions of their premises. No person shall permit or cause the accumulation of solid waste in a manner or to an extent that may be hazardous to public health or safety, or that obstructs traffic, drainage, or access to structures. All solid waste shall be properly disposed in accordance with the Solid Waste Management Regulations of the New Mexico Environment Department.

D. *Water and Wastewater Requirements.* All development within Sandoval County shall be in compliance with applicable regulations established by the New Mexico Environment Department concerning water and wastewater systems and by the New Mexico State Engineer's Office concerning water systems.

E. *Minimum Lot Size.* To protect County residents from the effects of undue concentrations of onsite liquid waste systems and population, the minimum lot size in all zones shall be three-quarters (¾) of an acre (32,670 square feet), unless specified otherwise. Lots that were legally created prior to the effective date of this Ordinance and in accordance with the laws in effect at the time of such creation are not affected by this provision. A lot size of less than three-quarters (¾) of an acre may be approved:

   1. For a lot that is not served by a community sewer system, by:

      (a) The grant of a permit by the New Mexico Environment Department, and

      (b) The subsequent grant of a variance pursuant to Section 18 of this Ordinance;

   2. For a lot that is served by a community sewer system, by approval of a variance pursuant to Section 18 of this Ordinance; or

   3. As otherwise permitted by this Ordinance.

F. *Building Height.*

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1. *Rural Districts.* Unless otherwise specified herein, the maximum height of a building in any rural zoning district shall be 36 feet.
2. *Urban Single-Family Residential Districts.* The maximum height of a building in any urban single-family residential district (R1-35, R1-15, R1-8, R1-6, and R1-5) shall be 36 feet.

Sec. 8. - Establishment of Zone Districts.

A. *Zone Districts.* In order to carry out the provisions of this Ordinance, the following zone districts are designated for use within Sandoval County:

RRA	RURAL RESIDENTIAL/AGRICULTURAL DISTRICT
CD	COMMUNITY DISTRICTS
CD-AL	ALGODONES COMMUNITY DISTRICT
CD-RRE	RIO RANCHO ESTATES COMMUNITY DISTRICT
CD-LC	LA CUEVA COMMUNITY DISTRICT
CD-JV	JEMEZ VALLEY COMMUNITY DISTRICT
CD-DT	DIAMOND TAIL MASTER PLANNED COMMUNITY DISTRICT
CD-WP	WEST PLACITAS COMMUNITY DISTRICT
CD-LP	LAS PLACITAS COMMUNITY DISTRICT
CD-IASF	IDEAL ACRES/SAN FRANCISCO COMMUNITY DISTRICT
DOZ-LP	LAS PLACITAS DESIGN OVERLAY ZONE
DOZ-I25	I-25/BERNALILLO INTERFACE DESIGN OVERLAY ZONE
DOZ-WP	WEST PLACITAS DESIGN OVERLAY ZONE
DOZ-LC	LA CUEVA DESIGN OVERLAY ZONE
DOZ-CORR	CORRIDOR OVERLAY ZONE
MP	MASTER PLANNED DISTRICT

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RC	RURAL COMMERCIAL DISTRICT
SU	SPECIAL USE DISTRICT
R1-35	URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT
R1-15	URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT
R1-8	URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT
R1-6	URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT
R1-5	URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT
R-2	URBAN MULTIFAMILY DISTRICT
R-3	URBAN MULTIFAMILY DISTRICT
R-4	URBAN MULTIFAMILY DISTRICT
R-5	URBAN MOBILE HOME PARK DISTRICT
C-O	URBAN COMMERCIAL OFFICE DISTRICT
C-1	URBAN NEIGHBORHOOD COMMERCIAL DISTRICT
C-2	URBAN COMMUNITY COMMERCIAL DISTRICT
C-3	URBAN MAJOR COMMERCIAL DISTRICT
I-1	GENERAL INDUSTRIAL DISTRICT

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B. *Official Zoning Maps.* All Official Zoning Maps in effect at the time of adoption of this Ordinance, including those adopted pursuant to Legislative and Quasi-Judicial Zone Map Amendments, will continue to be in full force and effect with the adoption of this Ordinance. The establishment of any zoning district, other than the Rural Residential/Agricultural (RRA) District, shall require adoption by Ordinance of an Official Zoning Map showing the district designation and boundaries of the territory so zoned. Any territory subject to this Ordinance that is not classified otherwise on an Official Zoning Map or is not shown on any Official Zoning Map is within the RRA District. The original of all Zoning

Maps shall be recorded in the office of the County Clerk. Copies of all Official Zoning Maps shall be maintained by the County Zoning Officer and shall be available for public reference.

C. *Form of Official Zoning Maps.* Official Zoning Maps, adopted at the time of this Ordinance and as subsequently adopted or amended, shall be identified by the signature of the Chairman of the County Board, attested to by the County Clerk, and shall bear the seal of the County under the following language:

"This is to certify that this is an official Zoning Map, adopted on the _____ day of _____/_____/_____, by action of the Board of County Commissioners pursuant to the Comprehensive Zoning Ordinance of Sandoval County, New Mexico."

D. *Interpretation.* Any person adversely affected by a determination of the Zoning Officer regarding the location of any zone district boundary or the zone district classification of any property may appeal that determination to the Zoning Commission pursuant to the provisions of Section 22 of this Ordinance.

Sec. 9. - Rural Districts.

Sec. 9(1). - RRA Rural Residential/Agricultural District.

A. *Intent.* This zone district maintains a rural character of land use with low-density residential and agricultural development, ideally on large lots that do not rely on or require connections to centralized water and sewer systems. Certain other uses are allowed, provided they are compatible with the rural residential and/or agricultural nature of the district.

B. *Permissive Uses.* Any of the following uses are allowed in this zone district:

1. One singular dwelling unit per lot;
2. One Guest House per lot, provided that:
   a. A Guest House may not be rented or leased, separately from the principal dwelling unit on a lot, for any period of time.
   b. All applicable requirements of the New Mexico Environment Department are met prior to construction of a Guest House.
   c. All other applicable requirements of this Ordinance are met;
3. Accessory uses and structures;
4. Agricultural activities, including wineries as defined by this Ordinance, provided that any areas devoted to livestock shall be constructed and maintained to discourage the concentration and breeding of insects and rodents that may be detrimental to human habitation, and provided that animal excrement shall not be allowed to accumulate in excessive amounts;
5. Home occupations; and
6. Public parks, open space, and accessory uses customarily incidental to such uses;
7. Exploratory water wells related to the development of water resources by governmental entities;
8. Permissive group homes.

C. *Conditional Uses.* The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:

1. Family Cluster Developments;
2. Public and private schools and related facilities;
3. Churches and related facilities;

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4. Recreational facilities;
5. Day-care and child-care facilities as regulated by the State of New Mexico;
6. Residential group training homes for developmentally or physically handicapped persons, and residential nursing homes that have, no more than ten residents at any one time;
7. Boarding-, rooming- or lodginghouses that have no more than ten residents at any one time, including "Bed and Breakfast" establishments;
8. Real estate offices;
9. Essential public utility structures;
10. Commercial stables, rodeo arenas, polo grounds, and riding academies;
11. Government and government affiliated operations, activities, and accessory structures except as otherwise provided in this Ordinance; and
12. Communications Towers as authorized by Sandoval County Ordinance #03-10-16.11A;
13. A Building or Structure that would otherwise be defined as an "Accessory Structure" to a dwelling unit under the terms of Section 6 of this Ordinance, but that is not physically located on the same lot with a dwelling unit. Periodic inspections by the Zoning Officer will be required to verify compliance with the provisions of this section;
14. Exploratory water wells related to the development of water resources by non-governmental entities;
15. Conditional group homes.

D. *District Standards.* The following standards apply to all land uses within the zone district:

1. All residential and residential-related buildings and structures shall be located with a front setback of no less than 20 feet, side setbacks of no less than ten feet and rear setback of no less than ten feet;
2. All nonresidential buildings and structures shall be located with front, side, and rear setbacks of no less than 20 feet.

Sec. 9(2). - CD Community Districts/OZ-Overlay Zones.

A. *Intent.* These zone districts/overlay zones are intended to preserve and protect communities and areas that have land use planning and regulation concerns arising from their particular history, culture, development pressures, and/or physical or natural characteristics that may differ from those in the County at large.

B. *Consistency with County Land Use Plans.* The County Board pursuant to Section 19 of this Ordinance may create Community Districts or Overlay Zones that are consistent with the Sandoval County Comprehensive Plan, and other applicable land use plans adopted by the County.

Sec. 9(2.1). - CD-AL Algodones Community District.

A. *Intent.* This zone district preserves and protects the established unincorporated community known as Algodones and the affiliated communities of Angostura and Las Colonias. This zone district shall be preserved as a predominantly residential community with necessary commercial, business, and other nonresidential activities that serve the local residents.

B. *Permissive Uses.* Any of the following uses are allowed in this zone district:

1. All uses that are permissive in the RRA zone district;
2. Cemetery; and

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3. Galleries and museums.

C. *Conditional Uses.* The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:

1. All uses that are conditional uses in the RRA zone district;
2. Retail commercial business and eating and drinking establishments intended to serve the local market area, provided that each such establishment does not exceed ten thousand (10,000) square feet of floor area;
3. Business, personal, financial and professional services, provided the maximum floor area for each establishment shall not exceed ten thousand (10,000) square feet;
4. Motor vehicle related services; and
5. Greenhouses, plant nurseries, and landscapers.

D. *District Standards.* The following standards apply to all land uses within this zone district:

[1.] All residential and residential-related buildings and structures shall be located with setbacks as provided in the RRA zone district.

[2.] All nonresidential buildings and structures shall be located with front, side, and rear setbacks of no less than 20 feet.

Sec. 9(2.2). - CD-RRE Rio Rancho Estates Community District.

A. *Intent.* This zone district shall provide for the orderly development of those areas of Rio Rancho Estates situated outside of the municipal limits of the city of Rio Rancho that are appropriate for rural residential development. This zone district shall provide further for the health, safety, and general welfare of area residents in recognition of the unique nature of Rio Rancho Estates within Sandoval County.

B. *Permissive Uses.* Any of the following uses are allowed in this zone district:

1. All uses that are permissive in the RRA zone district.
   a. All dwelling units shall be placed on a permanent foundation. Permanent foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (14 NMAC 12.2) for permanent foundations.
   b. If a dwelling unit is to be served by a shared domestic well, permitted under NMSA 1978, § 72-12-1. The maximum number of parcels served by that well shall not exceed three. All parcels to be served by a single shared domestic well shall be contiguous.
   c. Prior to the issuance of an occupancy permit for any dwelling unit, an attached or detached garage designed to hold at least two cars shall be constructed.
2. All "livestock" as defined by this Ordinance shall be kept in such a manner as not to constitute a nuisance and in conformance with the following regulations:
   a. The minimum lot size required for large livestock such as, horses, ponies, cattle, or similar animals, is one-half (½) acre for one animal.
   b. The minimum lot size required for medium livestock such as, sheep, goats, pigs, or similar animals, is one-half (½) acre, which will allow the keeping of up to five such animals. Larger lots will permit the keeping of additional such animals at a density of five animals per one-half (½) acre.
   c. Areas devoted to livestock, including accessory buildings or structures, shall be constructed and maintained to discourage concentration and breeding of insect pests.
   d. All animals shall be confined within the property boundaries.

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e. Offensive livestock waste odor shall be effectively controlled.

f. Animals under six months of age are not counted for purposes of the above provisions.

g. Large livestock as referenced in this section must be corralled in such a manner as to keep those animals a minimum of ten feet away from any property line.

C. *Conditional Uses.* The following uses may be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided in Section 17 of this Ordinance: All uses that are conditional uses in the RRA zone district.

D. *District Standards.* The following standards apply to all land uses within this zone district:

1. All building setbacks shall be as provided in the RRA zone district; except, that all lots abutting Southern Boulevard and 60th Street between Southern Boulevard and Northern Boulevard shall have:

   a. A minimum front building setback of seventy-five (75) feet from Southern Boulevard and the designated portion of 60th Street; and

   b. A solid masonry wall along the lot line abutting Southern Boulevard and the designated portion of 60th Street (6 foot in height for side walls and 3 foot for frontage walls).

2. All dwelling units shall be placed on a permanent foundation. Permanent Foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (14 NMAC 12.2) for permanent foundations.

3. If a dwelling unit is to be served by shared domestic well, the well shall be permitted under NMSA 1978, § 72-12-1. The maximum number of parcels served by that well shall not exceed three. All parcels to be served by a single domestic well shall be contiguous.

4. All dwelling units shall have an attached or detached garage built to hold at least two cars prior to the issuance of an occupancy permit.

5. All dwelling units shall have:

   a. A minimum width of 24 feet;

   b. A minimum length of forty-two (42) feet; and

   c. A minimum habitable area of one thousand-eight (1,008) square feet.

6. All dwelling units shall meet the design requirements contained in Section 12 (11).F.2.

7. On all dwelling units, the facade materials shall cover all vertical surfaces from the ground to the roofline, excluding any doors, windows, or design elements.

8. All dwelling units shall meet the following roof design requirements:

   a. Pitched roofs shall be made of corrugated metal or tile materials.

   b. Flat roofs shall have a stuccoed parapet rising at least 12 inches above the roof elevation or sufficient to obstruct from view and mechanical equipment located on the roof.

9. All development on property located within one thousand (1,000) feet from the intersection of Southern Boulevard with 20th or 60th Streets shall meet the design standards contained in Section 12 (2). E.

E. *Nonconforming Uses.* Any occupied dwelling unit that was legally constructed or installed in this District prior to December 3, 2001 but that does not conform to the requirements of this District is designated as a legal nonconformity pursuant to Section 16 of this Ordinance.

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Sec. 9(2.3). - CD-LC La Cueva Community District.

A. *Intent.* This zone district shall provide for the orderly development of those sections within the unincorporated area known as La Cueva that are appropriate for rural residential development. This district shall provide further for the health, safety, and general welfare of area residents in recognition of the unique nature of the La Cueva area within Sandoval County.

B. *Permissive Uses.* All uses that are permissive in the RRA zone district are permissive in this district, except that the following provisions shall apply:

   a. All dwelling units shall be placed on a permanent foundation. Permanent foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (14 NMAC 12.2) for permanent foundations.

   b. Mobile homes shall have a manufactured date after January 1, 1985 regulated pursuant to NMSA 1978, § 3-21A-3.

   c. If inoperable motor vehicles are to be stored on a lot within this district, they must be completely screened from adjacent public right-of-way or private lot(s) by a solid wooden fence. Agricultural vehicles are excluded from this regulation.

C. *Conditional Uses.* The following uses shall be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided by Section 17 of this Ordinance; All uses that are conditional uses in the RRA zone district, except that all nonresidential conditional uses must conform to the applicable requirements of the La Cueva Design Overlay Zone.

D. *District Standards.* The following standards apply to all land uses within this zone district. All building setbacks shall be as provided in the RRA zone district.

E. *Nonconforming Uses.* Any occupied dwelling unit that was legally constructed or installed within this District prior to the date of adoption of this Ordinance but that does not conform to the requirements of this District is designated as a legal nonconformity pursuant to Section 16 of this Ordinance.

Sec. 9(2.4). - CD-JV Jemez Valley Community District.

A. *Intent.* This zone district preserves and protects the unique scenic values of the Jemez Valley corridor and the affiliated unincorporated communities of Canon, Gilman, and South Jemez Springs. The Jemez Valley Community District standards may apply to the incorporated area of the Town of San Vsidro under authorized agreement by the Town of San Ysidro. This district shall provide for development that protects and enhances the rural qualities of the Jemez Valley. In addition, the purpose of the district is to protect the irrigated agricultural tracts and the acequia system of the Jemez Valley Corridor.

   1. All requirements set forth by the Jemez Valley Community District are consistent with the finding and recommendations of the Jemez Valley Area Plan.

   2. Due to excessive slope, drainage, and terrain conditions, no Type I, Type II, and Type III, Type IV, or Type V subdivisions will be allowed in the Jemez Valley Community District as described in Article I and II of the Sandoval County Land Subdivision Regulations.

   3. Only Summary Review Subdivisions will be allowed to be considered under the provisions of Article IV of the Sandoval County Land Subdivision.

B. *Permissive Uses.* Any of the following uses are allowed in this zone district:

   1. All uses that are permissive in the RRA zone district;

   2. Cemeter[ies]; and

   3. Galleries and museums.

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C. *Conditional Uses.* The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:

1. All uses that are conditional uses in the RRA zone district;
2. All uses permissive within the (RC) Rural Commercial zone district shall be permissive within this Overlay Zone.
3. [The] (RC) Rural Commercial zone district shall only apply to tracts of land that have frontage access on NM. Highway 4 and U.S. 550.
4. Any residential structure where the highest section of the building exceeds the natural ridge line-of-sight as viewed from any public road or street.

D. *District Standards.* The following standards apply to all land uses within this zone district:

1. All residential and residential-related buildings and structures shall be located with setbacks as provided in the RRA zone district.
2. All nonresidential buildings and structures shall be located with front, side, and rear setbacks of no less than 20 feet.
3. Retail commercial business and eating and drinking establishments intended to serve the local market area, provided that each such establishment:
   a. Does not exceed ten thousand (10,000) square feet of building footprint for development located on NM Highway 4; and
   b. Is not located on a lot located on NM Highway 4 that has a slope of more than eight percent (8%) measured from the front setback line to the rear setback line.
4. Business, personal, financial and professional services, provided the maximum floor area for each establishment shall not exceed ten thousand (10,000) square feet;

E. *Design Standards.* The Following Standards Shall Apply to Residential and Nonresidential Structures

1. Buildings shall be situated on the lot such that existing trees are preserved to the maximum extent possible. This provision shall not prevent the clearing of trees in order to provide defensible space around a building or structure for purposes of fire protection. Trees may be cleared to enhance views, but should be preserved to maintain the natural ridge line-of-sight as viewed from any public road or street.
2. All parking areas shall be surfaced in a manner deemed acceptable by the County. If any such area is proposed for paving subsequent to the adoption of this Ordinance, a grading and drainage plan must be prepared for review and approval by the County Engineer.
3. Outdoor light fixtures shall comply with the following:
   a. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.
   b. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.
   c. Fixtures shall be required to have all light focused downward.
   d. Exterior lighting shall be shielded in such a manner as to confine emitted light within the boundary of the property from which it originated.
   e. Outdoor light fixtures shall be limited to 16 feet in height.
   f. Any illuminated on-premise advertising sign shall be turned off between 11:00 p.m. and sunrise except that on-premise signs may remain illuminated while a business is open to the public.

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g. All nonconforming lighting installed prior to the effective date of this Ordinance shall be altered or replaced in order to conform within two years.

4. Drainage and ponding requirements for new residential development shall comply with the following:

a. Upon submission of a residential building permit, the applicant must submit a drainage plan which will demonstrate that site development will not result in an increase of historic pre-development flow. Facilities will be designed to mitigate runoff of private driveways, roofs, and any altered impervious surface.

b. Design of residential ponding facilities will be designed to mitigate the impact of a 100 year flood event.

[5.] All roofs on structures located in the Jemez Springs North Community as identified in the Jemez Valley Area Plan shall be metal or Class A asphalt with a minimum slope of 8%.

Sec. 9(2.5). - OZ-LC La Cueva Design Overlay Zone.

A. *[Purpose and Intent.]* This Overlay Zone applies to the areas where it is mapped in addition to the provisions of the underlying zone district. Where the provisions of this Overlay Zone conflict with those of the underlying zone district, the provisions of this Overlay Zone shall apply.

B. *Permissive Uses.* For lands within the RC (Rural Commercial) zoning district the following limitations on development apply in addition to those contained within the underlying zone district: All uses permissive within the RC district shall be permissive within this Overlay Zone except that no new establishments selling alcoholic beverages for consumption on premises shall be allowed, except for those selling beer and wine under a restaurant license, as provided by NMSA 1978, § 60-6A-4.

C. *Design Standards.* The following design standards are considered a portion of the Comprehensive Zoning Ordinance and are enforceable as such. All new nonresidential development within this Overlay Zone shall be subject to the following requirements, regardless of the existing zoning of the lot in question. Any expansion of an existing nonresidential use or building within this Overlay Zone must also conform to the design standards. Prior to County approval of construction plans as required by Section 15(G) of the Comprehensive Zoning Ordinance, a site development plan must accompany such plans and shall be submitted to the Zoning Officer for approval. Adequate information must be provided along with the site development plan to show that the following requirements will be met:

1. The exterior of all buildings shall be log type, post and beam, or wood lap siding painted or stained a natural wood color.

2. All roofs shall be standing seam metal roofs with a minimum slope of 8%.

3. Where a lot containing a nonresidential use abuts lot(s) zoned for or containing existing residential uses, the property line dividing the residential and nonresidential lots shall be screened with a solid wooden fence six feet in height.

4. A minimum of 15% of each off-street parking area's ground surface shall be landscaped. No less than one-half (½) of the required landscaping area shall be provided along the roadway frontage of the main roadway serving the lot in question. Plantings included in required landscaping shall be taken from the Plant List [in subsection E of this section]. Up to 20% of the required landscaping may be provided as part of a required drainage pond, subject to the approval by the Zoning Officer. Landscaping shall meet the following standards:

a. Trees shall be at least two inches in caliper measured at the trunk two feet above grade or the tree shall be at least ten feet in height at the time of planting.

b. Trees of a minimum size as specified herein shall be planted at the rate of one tree per 20 feet of linear street frontage.

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c. Shrubbery with a minimum size of five gallons shall be planted in appropriate numbers to complement the placement of trees, but in no case shall be less than two shrubs per 20 feet of linear street frontage.

d. Clustering of trees and shrubbery shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape.

e. Landscaping shall not create a physical or visual obstruction to vehicular traffic. New trees shall not be placed such that future growth might interfere with utility lines or cause structural upheaval of pavement or buildings.

f. Landscaping shall be installed according to plans approved by the Zoning Officer and shall be completed within one growing season after issuance of the building permit for the structure by the applicable agency.

g. Any plant material that does not survive shall be replaced with an equivalent size and species of plant material as directed following written notification by the Zoning Officer. Failure to properly maintain landscaping shall be considered a violation of this Ordinance.

5. Buildings shall be situated on the lot such that existing trees are preserved to the maximum extent possible. This provision shall not prevent the clearing of trees in order to provide defensible space around a building or structure for purposes of fire protection.

6. All parking areas shall be surfaced in a manner deemed acceptable by the County. If any such area is proposed for paving subsequent to the adoption of this Ordinance, a grading and drainage plan must be prepared for review and approval by the County Engineer.

7. Outdoor light fixtures shall comply with the following:

a. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.

b. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.

c. Fixtures shall be required to have all light focused downward.

d. Exterior lighting shall be shielded in such a manner as to confine emitted light within the boundary of the property from which it originated.

e. Outdoor light fixtures shall be limited to 16 feet in height.

f. Any illuminated on-premise advertising sign shall be turned off between 11:00 P.M. and sunrise except that on-premise signs may remain illuminated while a business is open to the public.

g. All nonconforming lighting installed prior to the effective date of this Ordinance shall be altered or replaced in order to conform within two years.

D. *Notification Requirements.* Whenever an application is filed under this Ordinance for either a Conditional Use under Section 17 or a Quasi-Judicial Zone Map Amendment under Section 19 for a property within this Overlay Zone, the notification requirements under those sections shall be followed. In addition to those requirements, the applicant shall post and maintain one or more notice signs provided by the Planning & Zoning Department on the subject property at a location designated by the Zoning Officer. Such sign(s) shall be posted at least 15 days prior to the hearing on the request by the Zoning Commission or County Board and shall remain in place until the hearing is concluded. The applicant shall remove the sign(s) within seven days of the applicable hearing. Failure to properly post and maintain the sign(s) is grounds for deferral or denial of the request.

E. *Plant List.* Only plants from this list will be approved for this district.

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Large Trees	
Green Ash	*Fraxinus pennsylvanica*
White Ash 'Autumn Purple'	*Fraxinus americana*
Bur Oak	*Quercus macrocarpa*
Narrowleaf Cottonwood	*Populus angustifolia*
Maple 'Crimson King'	*Acer platanoides*
Maple 'Red Sunset'	*Acer rubrum 'Franksred'*
Maple 'Tartarian'	*Acer tataricum*
Box Elder Maple	*Acer negundo*
Quaking Aspen	*Populus tremuloides*
Small & Medium Trees	
Littleleaf Linden	*Tilea cordata*
Flowering Locust 'Purple Robe'	*Robinia pseudoacacia*
Thornless Honeylocust	*Gleditsia triacanthos inermis*
Crabapples	*Malus spp.*
Chokecherry	*Prunus virginiana*
Russian Hawthorne	*Crataegus ambigua*
Toba Hawthorne	*Crataegus x mordenensis 'Toba'*
Amur Maple	*Acer ginnala*
Thin-leaf alder	*Alnus tenuifolia*

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Evergreens	
Subalpine fir	*Abies lasiocarpa*
Rocky Mountain juniper	*Juniperus scopulorum*
Engelmann spruce	*Picea engelmanni*
Colorado spruce	*Picea pungens*
Bristlecone pine	*Pinus aristata*
Limber pine	*Pinus flexilis*
Ponderosa pine	*Pinus ponderosa*
Concolor fir	*Abies concolor*
Shrubs	
Serviceberry	*Amelanchier alnifolia*
Siberian pea shrub	*Caragana arborescens*
Mountain mahogany	*Cercocarpus montanus*
Peking cotoneaster	*Cotoneaster acutifolia*
Mountain spirea	*Holodiscus dumosus*
Mountain mock orange	*Jamesia Americana*
'Zabels' blue leaf honeysuckle	*Lonicera koralkowi*
Tarterian Honeysuckle	*Lonicera tatorica*
Creeping grape holly	*Mahonia repens*
Shrubby cinquefoil	*Potentilla fruticosa*

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Currant and gooseberry	*Ribes* spp.
Canada buffaloberry	*Shepherdia Canadensis*
Persian lilac	*Syringa laciniata persica*
Common lilac	*Syringa vulgoris*
European cranberrybush	*Viburnum opulus*
Red-osier dogwood	*Cornus stolonifera*
Japanese barberry	*Berberis thunbergi*
Rabbitbrush	*Chrysothamnus nauseosus*
Skunkbush sumac	*Rhus trilobata*
Harison yellow rose	*Rosa harisoni*
Redleaf shrubrose	*Rosa rubrifolia*
Froebel spirea	*Spiraea bumalda*
VanHoutte spirea	*Spiraea vanhouttei*
'MacFarland' lilac	*Syringa villosa*

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Sec. 9(2.6). - OZ-CORR Corridor Overlay Zone.

A. *Purpose and Intent.* The Development Standards Section is intended to provide minimum standards for the organization and layout of buildings, parking areas, landscaped areas and building design of commercial and industrial uses so as to promote the general health, welfare and safety of residents within the community. This is accomplished by encouraging the creation of safe and attractive appearances to the public eye and minimizing views of unattractive uses or activities. Likewise, sound design principles can enhance the compatibility of dissimilar uses and provide for transitional or buffer zones between such uses. The standards set fourth herein are recognized as assisting in promoting privacy and logical development and strengthening property values.

B. *Applicability.* The standards outlined in this section shall apply to the following buildings and uses for all Non-Single-family Developments:

1. The following standards shall apply to all developments within 1000 feet of Interstate 25, US Highway 550 and State Roads 4, 14, 22, 96, 126, 165, 197, 290, 313, 314, 315, 485, 528, 537, Northwest Loop and Paseo Del Volean, and Southern Blvd (Rio Rancho Estates) with the exception of those areas where Design Overlay Zones have been adopted.
2. All buildings and uses of land constructed or developed after the effective date of this Ordinance.
3. Existing properties when a change in the distinguishing characteristics or primary features of the use of a building or land occurs after the effective date of this Ordinance. Such changes may include an increase in the size of the building. Criteria used to establish applicability may include, but is not limited to, an increase in Parking requirements, a change in occupancy designation, a change in outside storage, or other similar factors.

C. *Commercial/Industrial/Other Non-Single-Family Residential Standards.*

1. *Building Design.*

   a. All parking lots shall be screened from public streets by masonry walls or earth berms or combination thereof to a height of at least three feet above the grade of the parking lot or adjacent street, whichever is higher in elevation. Such walls shall be designed and colored to match the main buildings on the site.

   b. The use of balconies, overhangs, covered patios, and trellis' can provide relief and contrast to the building and assist in breaking up large wall surfaces.

   c. Rooflines shall be varied providing different heights or varying roof orientation. Parapet walls should be interrupted by pitched roofs to provide variety to the roof and building line.

   d. Pitched roofs shall be composed of mission title, concrete tile, standing seam metal, or similar grade material.

   e. The architectural detailing and treatment of windows and doorways shall be strongly considered through the use of clerestory windows, arched shapes, bay windows, recessed windows, raised borders, awnings, shutters, and trellis.

   f. Entryways and stairwells shall be an integral part of the building design. Consideration should be given to partially screening stairwells or using unique architectural treatments so that they blend in with the overall building elevation.

   g. Patio walls and fences shall be an integral part of building design and shall match the main building materials.

   h. Entryways and stairwells shall be an integral part of the building design. Consideration should be given to partially screening stairwells or using unique architectural treatments so that they blend into the building design.

   i. Mechanical equipment shall be screened from public view and be so located as to be perceived as an integral part of the buildings.

   j. Exterior perimeter walls of a project facing public streets shall be constructed of a slump block, brick, or masonry with a stucco finish to match the main building materials.

2. *Separation of Uses.*

   a. Where industrial or commercial uses are located adjacent to or separated by an alley from any residential use or district, a ten foot wide landscape strip, planted with one tree every 20 linear feet, shall be required along the common property line. Trees must be non-deciduous and may not be clustered. A six-foot masonry wall shall be required along the common property line. An eight (8) foot wall may be required for commercial or industrial projects warranting higher screening.

   b. When commercial or industrial uses are adjacent to a residential use or district, the following building separation to property line shall apply:

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Building Height	Setback
1 Story (15')	25'
2 Story (36')	50"

c. A six foot masonry wall shall be required along interior property lines separating individual development sites. Within the front yard setback, maximum wall height shall be three foot, six inches (3'6").

3. *Site Organization and Development.*

a. *Screening Standards.*

1. All outdoor storage areas for materials, trash, equipment, vehicles or similar items shall be screened from view along all street frontages by a six foot wall constructed of slump block, brick, or masonry with a stucco or mortar wash finish designed to match the main building on the site.

2. The storage of materials, trash, equipment, vehicles, or other items within an enclosed storage area should not be substantially visible from adjoining streets or properties.

3. All loading, delivery and service bays should not front onto a public street and shall be screened from public view with at least a six foot wall, constructed of brick, slump block, or masonry with stucco or mortar wash finish, or a similar finish, designed to match the main building on the site.

4. Dismantling, servicing, repairing, etc. of vehicles and/or equipment shall be within completely enclosed building or within an area enclosed by brick, block, or masonry walls.

5. Car wash service bays shall not face onto or be substantially visible from any public street and are subject to the screening standards in [subsection C.3.a.3 of this section].

b. *Service Station Design Standards.*

1. The minimum dimension of any service station site shall be one hundred-fifty feet (150').

2. Pump islands shall be located at least 30 feet from the street right-of-way line.

3. The outside display of tires, oil or other sale items shall be located adjacent to the main building.

4. Service areas and bay doors shall not front onto or be substantially visible from any public street and are subject to the screening standards.

5. Service stations which are situated within a larger commercial development shall be separated from adjacent property by a three foot wall, landscaping, or curbing, except for necessary driveways, in order to control vehicular movements and circulation.

6. The design of the service station building and site shall be compatible with the type of development in or anticipated in nearby areas.

4. *Driveways.*

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a. The following schedule shall serve as a guide for the allowable number of driveways on a site, unless modified by traffic studies:

1. One driveway per abutting street;

2. One additional driveway for sites with a continuous frontage of at least three-hundred (300) feet; or two additional driveways for sites with a continuous frontage of at least six-hundred (600) feet;

3. An additional service driveway may be allowed where patrons of the development are not likely to use it (example: service driveway for a shopping center).

b. Driveways shall not be located closer than 100 feet to a street intersection (may be reduced to seventy-five (75) feet in certain instances of hardship).

c. The joint use of a single driveway by two or more adjoining parcels is encouraged.

d. Right-turn lanes along public streets are encouraged for establishments with high vehicle counts to reduce disruption to through traffic. A right-turn lane shall be required for retail sites with more than eighty thousand (80,000) square feet of building area. The right-turn lane should be utilized at the primary entrance to the site.

e. All buildings must have adequate access for fire and emergency vehicles. The minimum width of a fire lane is 20 feet.

5. *Miscellaneous Design Standards.*

a. No walls, buildings, or other obstructions to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty-three (33) feet from the intersection of the street right-of-way lines. Trees may be located within the triangle provided they are pruned to permit unobstructed vision.

b. All trash or refuse collection areas shall be enclosed by a six foot masonry wall, styled to match the material of adjacent walls or the main building on the site.

c. All outdoor lighting shall be directed down and screened away from adjacent properties and streets.

d. All undeveloped building pads within developed shopping centers or similar projects shall be either paved or landscaped to control dust and erosion.

e. Electrical utility, cable TV and all other utility lines for buildings shall be placed underground. Overhead lines are prohibited.

6. *Landscaping.*

A. *General Requirements for All Commercial/Industrial/Nonresidential Uses.*

1. A minimum of ten percent of net land area of any site shall be landscaped.

2. Required yards fronting on a public street shall be entirely landscaped excluding driveways and walkways. Parking and maneuvering areas shall not be permitted in the landscaped yards cited above excepting driveways and walkways.

3. Where existing buildings or nearby parcels are built to the street property line, landscaping may be modified or located elsewhere on approval of the Planning Commission.

4. An automatic irrigation system shall be provided to all landscaped areas requiring water.

5. All trees required by this part shall have a minimum trunk height of six feet, with a minimum one and one-half inch (1½") caliper measured four feet above the ground. Multi-trunk trees may have smaller average caliper measurements.

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6. Twenty-four inch (24") box trees shall have a minimum trunk height of eight (8) feet with a minimum two inch caliper measured four feet above the ground. Multi-trunk trees may have smaller average caliper measurements.

B. *Streetscape Standards.* The following landscaping shall be required along all streets:

1. Trees with a minimum size as specified herein shall be planted at the rate of one tree per 20 feet of linear street frontage. A minimum of twenty-five (25) percent of the required trees shall be 24-inch box trees.

2. Shrubbery with a minimum size of five gallons shall be planted in appropriate numbers to complement the placement of trees, but in no case shall be less than two shrubs per 20 feet of linear street frontage.

3. Clustering of trees and shrubbery shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape. Contouring of the ground and placement of mounds and earth berms along street shall be required.

C. *Ground Cover.*

1. A minimum of twenty five percent (25%) of all frontage landscaped areas shall be covered with vegetative or organic ground cover consisting of living plant materials characterized by horizontal growth which generally does not exceed 18 inches in height.

2. Inorganic ground cover, consisting of decomposed granite, crushed rock, gravel, river run and/or boulders, shall be of sufficient variety in terms of color, texture, and materials to provide a pleasant and diverse appearance to the streetscape. Mounding and contouring of landscaped areas is required.

D. *Retention Basins.*

1. All private retention basins shall be landscaped. Such basins may not occupy more than fifty percent (50%) of any landscaped area fronting on a public street; except, where exceptional design or shallow depths are proposed for the retention basin.

2. Retention basins shall be contoured and designed as an integral part of any frontage landscaping and shall not take on the appearance of a ditch. Maximum side slopes of basins shall be a four to one (4:1) ratio.

E. *Foundation Planting.* Foundation planting is required adjacent to buildings fronting on public streets. A minimum of thirty-three percent (33%) of the building frontage shall be landscaped, with a minimum width planter area of three feet (vehicle overhang not permitted).

7. *Maintenance.* All landscaping shall be maintained and any dead plant material shall be promptly replaced.

D. *Development Standards for Multifamily Residential Districts.*

1. *Purpose.* The intent of these standards is to promote sound design principles and high quality residential environments for residents of multifamily projects. The standards promote privacy for residents and strengthen property values while reducing the impact of high density development on adjacent land uses.

2. *Building Design.*

a. *Intent.* The intent of this section is to establish standards to encourage the orderly and harmonious appearance of structures along the County's major thoroughfares.

b. *General Requirements.*

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1. The architecture of buildings shall not be prescribed and the County encourages variety in the style of structures. The architectural character of a proposed structure, however, shall be in harmony with and compatible to those in the immediate proximity.
2. The building facades of large, massive structures shall be architecturally styled to achieve a smaller scale. Large building walls shall be broken to reduce scale and provide variety to the streetscape by use of landscaping, architectural treatment or murals.
3. Mechanical equipment, whether ground-level or roof-mounted, shall be screened from public view and be so located as to be perceived as an integral part of the building.
4. Accessory equipment capable of generating noise and vibrations shall be properly insulated and the noise and vibrations shall not be apparent from adjacent properties or the public right-of-way.
5. Mission tile, concrete tile, standing seam metal grade roofing material shall be used on all pitched roofs.
6. Equipment such as, but not limited to, telephones, vending machines, and ice machines shall be screened from street view and placed in an area designed for their use, which is an integral part of the structure.
7. All four sides of a building shall receive consistent architectural treatment.

3. *Building Separation.*

a. Where a lot is occupied by a group of two more related buildings, the minimum dimension of a yard upon which the principle entrance or exit of a multifamily building shall face, shall be according to the following schedule:

Building Height	Minimum Yard Dimension
1 Story	25 feet
2 Story	40 feet

b. The minimum separation between buildings on a multifamily site shall be 15 feet.

4. *Relationship of Project to Surrounding Land Uses.* The relationship between a multifamily project and adjacent uses shall take into account the type of adjacent uses, building scale, density and building heights. Particular sensitivity shall be displayed to the relationship between a multifamily project and adjacent residential uses of lesser density to minimize the impact on those less-dense areas.

a. Multifamily buildings shall be limited to a height of one story within fifty (50) feet of a single-family residential area or zoning district. Multifamily buildings two stories in height or greater shall not be placed within seventy-five (75) feet of a single-family residential area or zoning district.

b. Individual design situations may dictate additional conditions or considerations to minimize the impact of a multifamily development on adjacent residential uses through the imposition of one or more of the following design considerations:

1. Use of the one-story buildings;
2. Additional landscaping to serve as buffer area;

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3. Wider setbacks from property line;
4. Modifying the orientation of buildings;
5. Modifying the orientation of windows and balconies;
6. Providing screen walls.
7. Common recreation facilities in a project shall be located to minimize the intrusion of noise into adjacent residential area.

5. *Open Space.*

a. "Common open space" is defined as that portion of a parcel not covered by buildings (including patios, parking areas, or driveways). Such areas shall be devoted to the purpose of outdoor living space for the residents and may include lawn areas, walkways, sitting areas, courtyards, and outdoor recreation facilities. Buildings, structures, and other impervious surfaces devoted to meaningful recreation or open space uses shall be considered as open space.

b. The amount of common open space provided in a project shall equal or exceed the multiple of 1.5 times the first floor area of all buildings up to a maximum of 45% of the net lot area.

c. A minimum of 30% of the required common open space shall be provided along the public street frontage in the form of landscaping setback. Such areas shall not be required to exceed 50 feet in width nor shall be less than 25 feet in width.

d. No more than 50% of the required front yard landscaped area or any other street frontage area may be used for stormwater retention purposes. Side slopes of basing shall not exceed a 6:1 slope. The maximum side slope shall be a 4:1 ratio.

e. Required yards and landscape setback areas fronting on a public street shall be entirely landscaped except for necessary driveways and walkways. Parking is not permitted within the required setback area.

f. Private outdoor space shall be provided in the form of patios or balconies with a minimum size of 60 square feet per unit and minimum dimension of six feet.

6. *Specific Building Design Requirements.*

a. Buildings with metal or steel exteriors shall be architecturally altered through the construction of masonry or wood veneers, facades, or other architectural treatments and installation of landscaping to minimize the extent of metal surfaces visible from the street.

b. All buildings located within a unified, planned development, such as a master planned community, shall be architecturally styled to achieve harmony and continuity of design. Building elevations shall be coordinated with regard to color, texture, materials, finishes, and form.

7. *Landscaping.*

a. A minimum ten foot wide landscaped area shall be required along all interior property lines separating individual development sites. Trees with a minimum size of 15 gallons shall be planted every 15 feet on center within the area. A six foot high masonry wall shall be required along the property line. Any walls facing public streets shall be finished with stucco or other materials to match the main buildings on the site.

b. Along public street frontages, minimum 15 gallon-sized trees shall be planted at a ratio of one tree per 20 feet of frontage. A minimum of twenty-five (25) percent of the required trees shall be twenty-four-inch (24") box size.

c. Within common open space areas, minimum 15 gallon sized trees shall be planted at a ratio of one tree per dwelling unit.

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d. Open space areas along public street frontage shall receive special landscaping treatment to provide a lush setting for both the residents of the project and the general public. The following standards shall apply to landscaping of public street frontages:

1. Special entry features shall be provided at major entrances into a project to provide a sense of identification and uniqueness.

2. Walls, planters, and earth berms shall be provided in the front yard to add variety to the landscape and to increase privacy for the residents.

3. No more than 50% of the required front yard landscaped area may be used for stormwater retention purposes.

e. Foundation plantings should be utilized to complement building elevations, provide shade, and increase privacy. A minimum of 50% of the building frontage facing public streets shall have foundation plantings.

E. *Mobile Home Parks.* Standards contained herein are designed to afford adequate separation of mobile home units, screening, and open spaces in order to enhance the park environment.

1. *Permitted Uses.*

a. One mobile home on each space, including carports, ramadas, patios, storage rooms and similar accessory structures.

b. Recreational vehicles, provided no more than 15 percent of the spaces in the park are used by RVs.

c. Accessory uses common to mobile home parks including community recreation buildings, parking areas, laundry facilities, manager's office and living quarters, boat and trailer storage area and other similar accessory uses for the exclusive benefit of park residents.

d. Temporary construction offices, sheds, storage yards, and residential sales offices while construction is ongoing within the project. Such uses shall be kept in a neat and orderly condition and be located so as not to adversely affect residents in the project.

2. *Development Standards.*

a. The minimum size of a mobile home park shall be ten acres.

b. The maximum number of mobile home spaces or units per acre shall be seven.

c. The minimum width of mobile home rental spaces shall be fifty (50) feet with a minimum length of seventy (70) feet.

d. The minimum width of private driveways or access ways within the park shall be 24 feet. Each unit shall have access to a private driveway or access way connected to a public street.

e. The minimum space between mobile homes shall be 20 feet. This dimension may be reduced to ten feet between awnings or canopies.

f. No mobile home shall be closer than eight (8) feet to a private driveway.

g. A minimum of five percent of the site shall be devoted to usable common open space for all residents, excluding streets and private driveways, parking and storage areas, or required setbacks at the exterior boundaries of the site.

h. All areas not covered by structures or paving shall be landscaped.

i. The maximum height of any building or mobile home shall be 30 feet.

j. Each mobile home shall be skirted to screen wheels and undercarriage.

k. All electric power lines, telephone lines, cable TV lines and similar utilities shall be placed underground.

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l. No mobile home shall be located closer than 15 feet to the perimeter of the park. Where the perimeter of the park adjoins a public street, the setback shall be twenty-five (25) feet. A minimum six foot and maximum eight (8) foot wall shall be constructed around the perimeter of the park. Where said wall fronts onto a public street, the wall shall be constructed of slump block, brick or masonry with a stucco finish.

m. Any part of the mobile home park fronting on a public street shall meet the screening and landscaping requirements for commercial/industrial developments.

n. A storage yard for boats, trailers, and RVs shall be required unless such vehicles are prohibited. The minimum size of such area shall be 60 square feet per mobile home space. This provision is inapplicable if RVs are used for housing.

3. *Landscaping.*

a. A minimum ten foot wide landscaped area shall be required along all interior property lines separating individual development sites. Trees with a minimum size of 15 gallons shall be planted every 15 feet on center within the area. A six foot high masonry wall shall be required along the property line. Any walls facing public streets shall be finished with stucco or other materials to match the main buildings on the site. Within this setback area, trees with a minimum size of 15 gallons shall be planted every 20 feet on center.

b. Along public street frontages, minimum 15 gallon-sized trees shall be planted at a ratio of one tree per 20 feet of frontage. A minimum of twenty-five (25) percent of the required trees shall be twenty-four inch (24") box size.

c. Within common open space areas, minimum 15 gallon sized trees shall be planted at a ratio of one tree per dwelling unit.

d. Open space areas along public street frontage shall receive special landscaping treatment to provide a lush setting for both the residents of the project and the general public. The following standards shall apply to landscaping of public street frontages:

1. Special entry features shall be provided at major entrances into a project to provide a sense of identification and uniqueness.

2. Walls, planters, and earth berms shall be provided in the front yard to add variety to the landscape and to increase privacy for the residents.

3. No more than 50% of the required front yard landscaped area may be used for stormwater retention purposes.

4. Foundation plantings should be utilized to complement building elevations, provide shade, and increase privacy. A minimum of 50% of the building frontage facing public streets shall have foundation plantings.

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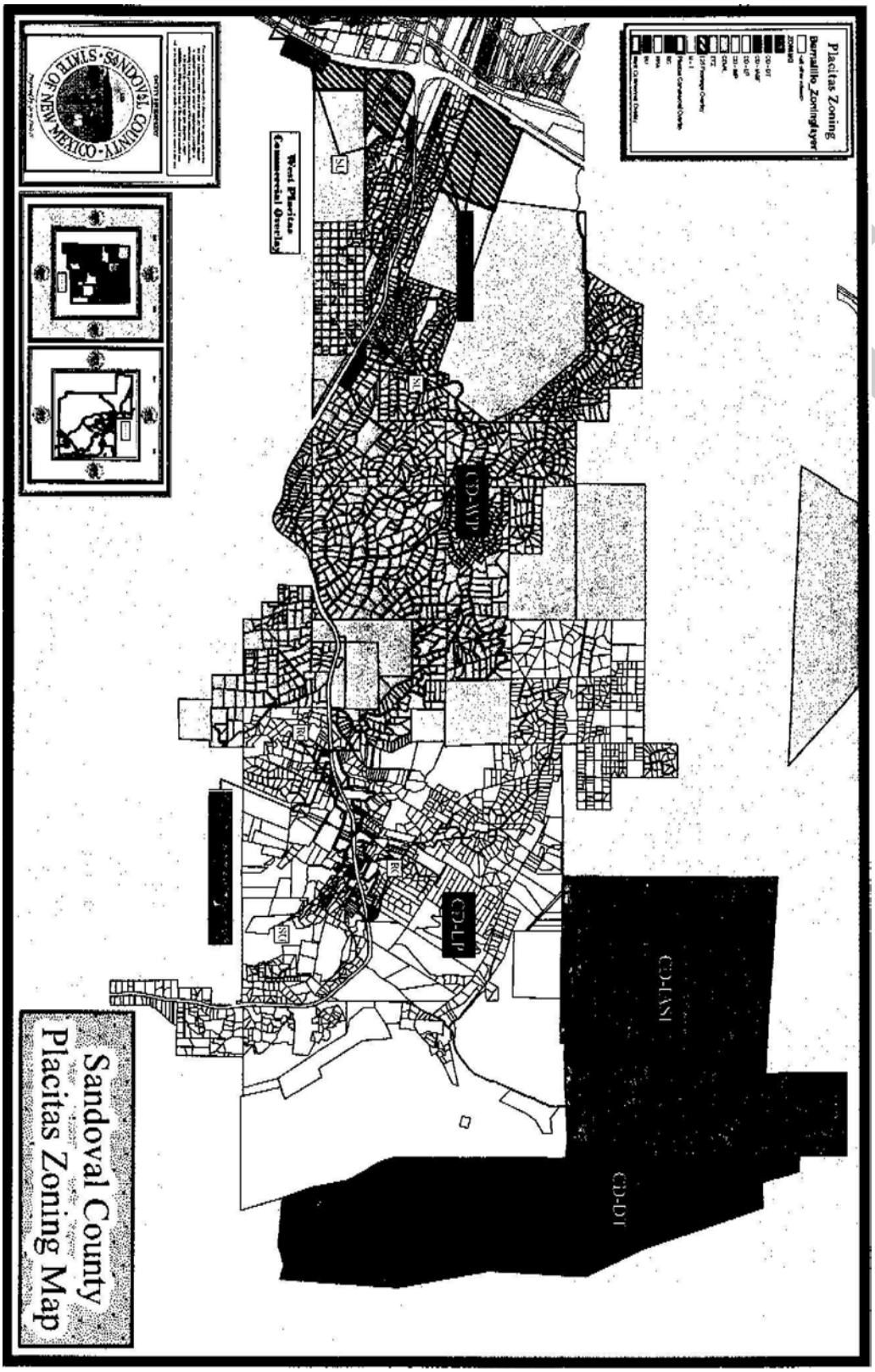
Placitas Zoning
Bernalillo_ZoningLayer
CO-MT
CO-LT
CO-AS
CO-DT
West Placitas Commercial Overlay
SANDOVAL COUNTY · STATE OF NEW MEXICO
Sandoval County
Placitas Zoning Map

Sec. 9(2.7). - CD-WP West Placitas Community District.

A. *Intent.* This zone district shall provide for the orderly development and protection of those residential areas of Placitas that were formerly under the jurisdiction of the Town of Bernalillo, Sandoval County, New Mexico Extra-Territorial Zoning Ordinance along with the remainder of the western portion of the Placitas area and will implement adopted policies of the Placitas Area Plan. This district shall provide further for the health, safety, and general welfare of area residents in recognition of the unique nature of these areas within Sandoval County.

B. *Permissive Uses.* Any of the following uses are allowed in this zone district: All uses that are permissive in the RRA zone district.

C. *Conditional Uses.* The following uses shall be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided by Section 17 of this Ordinance: All uses that are conditional uses in the RRA zone district.

D. *District Standards.* The following standards apply to all land uses within this zone district:

1. A slope analysis shall be submitted with building plans for any new construction within this district. Such slope analysis shall be sealed by a land surveyor or professional engineer licensed to practice in the State of New Mexico. If the slope of the land is twenty percent (20%) or greater, the analysis will designate the brow of a slope, the proposed building envelope or footprint, and the plane of the slope. Retaining walls included on such plans for sites located on slopes of twenty percent (20%) or greater shall have no more than two feet exposed above the natural grade.

2. All building setbacks shall be as provided in the RRA zone district, except for the following: On lots located on slopes twenty percent (20%) or greater, the setback shall be such that no part of a structure or associated retaining wall breaks the plane of the slope.

3. The minimum lot size shall be one acre (43,560 square feet) except that all lots legally created prior to the adoption of this Ordinance and all lots within subdivisions that have received Preliminary Plat approval from the Board of County Commissioners prior to the adoption of this Ordinance are not affected by this provision.

4. No building shall exceed twenty-eight (28) feet in height.

5. Outdoor light fixtures shall comply with the following:

   a. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.

   b. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.

   c. Fixtures shall be required to have all light focused downward.

   d. Exterior lighting shall be shielded in such a manner so that it does not shine onto any adjoining residential properties.

   e. Outdoor light fixtures shall be limited to 16 feet in height.

   f. All nonconforming lighting installed prior to the effective date of this Ordinance shall be altered or replaced in order to conform within two years.

6. All dwelling units shall comply with the following standards:

   a. All dwelling units shall be placed on a permanent foundation. Permanent Foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (14 NMAC 12.2) for permanent foundations.

   b. Prior to the issuance of an occupancy permit for any dwelling unit, an attached or detached garage designed to hold at least two cars shall be constructed.

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c. All dwelling units shall have:

1. A minimum width of 24 feet;

2. A minimum length of forty-two (42) feet; and

3. A minimum habitable (heated) area of one thousand-eight (1,008) square feet.

7. All dwelling units shall meet the following roof design requirements:

a. Pitched roofs shall be made of corrugated metal or tile materials.

b. Flat roofs shall have a stuccoed parapet rising at least 12 inches above the roof elevation or sufficient to obstruct from view any mechanical equipment located on the roof.

8. The overburden from excavation of any building site shall not allowed to be disposed over any natural vegetated area.

Sec. 9(2.8). - CD-LP Las Placitas Community District.

A. *Intent.* This zone district shall provide for the orderly development and protection of the rural and historic areas of Placitas and will implement adopted policies of the Placitas Area Plan. This district will help to protect the irrigated agricultural tracts and the acequia systems within this part of Placitas. This district shall provide further for the health, safety, and general welfare of area residents in recognition of the unique nature of these areas within Sandoval County.

B. *Permissive Uses.* Any of the following uses are allowed in this zone district: All uses that are permissive in the RRA zone district.

C. *Conditional Uses.* The following uses shall be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided by Section 17 of this Ordinance: All uses that are conditional uses in the RRA zone district.

D. *District Standards.* The following standards apply to all land uses within this zone district:

1. All building setbacks shall be as provided in the RRA zone district.

2. The minimum lot size shall be as provided in the RRA zone district.

3. No structure shall exceed 36 feet in height.

4. Outdoor light fixtures shall comply with the following:

a. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.

b. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.

c. Fixtures shall be required to have all light focused downward.

d. Exterior lighting shall be shielded in such a manner so that it does not shine onto any adjoining residential properties.

e. Outdoor light fixtures shall be limited to 16 feet in height.

f. All nonconforming lighting installed prior to the effective date of this Ordinance shall be altered or replaced in order to conform within two years.

5. All dwelling units shall comply with the following standards:

a. All dwelling units shall be placed on a permanent foundation. Permanent Foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (14 NMAC 12.2) for permanent foundations.

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b. Mobile homes shall have a manufacture date after January 1, 1985, regulated pursuant to NMSA 1978, § 3-21A-3.

6. Prior to the transfer of real property within this District by any legally allowable means, the owner of the property or his/her agent will provide, at the time of receipt of an offer to purchase or at the time of transfer, a copy of the Right to Farm and Acequia Awareness packet consisting of Section (6)(B)(7) and (9) (1) of this Ordinance, the text of NMSA 1978, § 47-9-1 et seq., known as the Right to Farm Act, and the Acequia Information packet as provided by Sandoval County. The person accepting the transfer or taking ownership will provide written verification of receipt of this information to the transferor or seller.

7. Nothing herein prohibits a property owner from placing further restrictions and covenants, except those otherwise prohibited by law, on the use of his/her real property. Such enforcement of any further restrictions or covenants shall be the sole responsibility of those real property owners placing such covenants and restrictions.

Sec. 9(2.9). - CD-IASF Ideal Acres/San Francisco Community District.

A. *Intent.* This zone district shall provide for the orderly development and protection of the northeastern portion of the Placitas area and will implement adopted policies of the Placitas Area Plan. This district shall provide further for the health, safety, and general welfare of area residents in recognition of the unique nature of this area within Sandoval County.

B. *Permissive Uses.* Any of the following uses are allowed in this zone district: All uses that are permissive in the RRA zone district.

C. *Conditional Uses.* The following uses shall be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided by Section 17 of this Ordinance: All uses that are conditional uses in the RRA zone district.

D. *District Standards.* The following standards apply to all land uses within this zone district:

1. All building setbacks shall be as provided in the RRA zone district.

2. The minimum lot size shall be two acres (87,120 square feet) except that all lots legally created prior to the adoption of this Ordinance and all lots within subdivisions that have received Preliminary Plat approval from the Board of County Commissioners prior to the adoption of this Ordinance are not affected by this provision.

3. No building shall exceed 36 feet in height.

4. Outdoor light fixtures shall comply with the following:

a. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.

b. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.

c. Fixtures shall be required to have all light focused downward.

d. Exterior lighting shall be shielded in such a manner so that it does not shine onto any adjoining residential properties.

e. Outdoor light fixtures shall be limited to 16 feet in height.

f. All nonconforming lighting installed prior to the effective date of this Ordinance shall be altered or replaced in order to conform within two years.

5. All dwelling units shall comply with the following standards:

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a. All dwelling units shall be placed on a permanent foundation. Permanent Foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (14 NMAC 12.2) for permanent foundations.

b. Mobile homes shall have a manufacture date after January 1, 1985, regulated pursuant to NMSA 1978, § 3-21A-3.

6. Prior to the transfer of real property within this District by any legally allowable means, the owner of the property or his/her agent will provide, at the time of receipt of an offer to purchase or at the time of transfer, a copy of the Right to Farm and Acequia Awareness packet consisting of Section (6)(B)(7) and (9)(1) of this Ordinance, the text of NMSA 1978, § 47-9-1 et seq., known as the Right to Farm Act, and the Acequia Information packet as provided by Sandoval County. The person accepting the transfer or taking ownership will provide written verification of receipt of this information to the transferor or seller.

7. Nothing herein prohibits a property owner from placing further restrictions and covenants on the use of his/her real property. Such enforcement of any further restrictions or covenants shall be the sole responsibility of those real property owners placing such covenants and restrictions.

Sec. 9(2.10). - Las Placitas Design Overlay Zone.

A. *[Purpose.]* The purpose of this Overlay Zone is to allow for a limited commercial area to serve the historic village area of Placitas and to preserve the semi-rural qualities of the village. This area will be a local center for community scale amenities. This Overlay Zone applies to the areas where it is mapped in addition to the provisions of the underlying zone district. Where the provisions of this Overlay Zone conflict with those of the underlying zone district, the provisions of this Overlay Zone shall apply.

B. *Design Standards for Nonresidential Development.* The following design standards are considered a portion of the Comprehensive Zoning Ordinance and are enforceable as such. All new nonresidential development within this Overlay Zone shall be subject to the following requirements, regardless of the existing zoning of the lot in question. Any expansion of an existing nonresidential use or building within this Overlay Zone must also conform to the design standards. Prior to County approval of construction plans as required by Section 15(G) of the Comprehensive Zoning Ordinance, a site development plan must accompany such plans and shall be submitted to the Zoning Officer for approval. Adequate information must be provided along with the site development plan to show that the following requirements will be met:

1. No building shall exceed 36 feet in height.

2. The maximum footprint of any building shall be 10,000 square feet, although 6,000 square feet is preferred.

3. The combined floor area of all buildings on any lot shall not exceed 50% of the total area of the lot.

4. The parking requirements in Section 9(4) of this Ordinance shall apply. Parking within the right-of-way of NM 165 will be allowed only with the approval of the New Mexico Department of Transportation.

5. All nonresidential buildings and structures shall be located with front, side, and rear setbacks of no less than 20 feet.

Sec. 9(2.11). - I-25/Bernalillo Interface Design Overlay Zone.

A. *[Purpose.]* The purpose of this Overlay Zone is to promote mixed use development appropriate for an interstate Highway corridor. In addition the Overlay Zone is created to promote transit oriented development due to its close proximity to the NM 550/Sandoval County regional transit facility. The Overlay Zone forms a transition from land uses that are appropriate adjacent to an Interstate

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Highway to the low density residential uses that are appropriate within the CD-WP district. This Overlay Zone applies to the areas where it is mapped in addition to the provisions of the underlying zone district. Where the provisions of this Overlay Zone conflict with those of the underlying zone district, the provisions of this Overlay Zone shall apply.

B. *Design Standards for Certain Types of Development.* The following design standards are considered a portion of the Comprehensive Zoning Ordinance and are enforceable as such. Any development that includes uses that are not listed as Permissive or Conditional within the RRA Zone District and that is to be located within this Overlay Zone shall be subject to the following requirements, regardless of the existing zoning of the lot in question:

1. Any development identified within this Section must be submitted as a Master Planned Development under the provisions of Section 11 of this Ordinance, regardless of the acreage of the parcel in question.
2. No structure shall exceed 36 feet in height except for flagpoles, antennas, spires, or other accessory objects customarily placed above the roof level and not intended for human occupancy.
3. The combined floor area of all buildings on any lot shall not exceed 50% of the total area of the lot.
4. Any development identified within this section shall include a 100 foot buffer between the perimeter of the development and any existing residential development outside of the Overlay Zone. This buffer may either be open space or single-family residential development permissible within the CD-WP zone district.

Sec. 9(2.12). - CD-DT Diamond Tail Master Planned District.

A. *Intent.* This zone district shall provide for the implementation of the Diamond Tail Master Plan and will apply to that area designated as such on that Master Plan approved by the Sandoval County Board of County Commissioners on September 5, 1996 and on the Sandoval County Zoning Map.

B. *Permissive Uses.* Any of the following uses are allowed in this zone district: All uses that are permissive in the RRA zone district.

C. *Conditional Uses.* The following uses shall be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided by Section 17 of this Ordinance: All uses that are conditional uses in the RRA zone district.

D. *District Standards.* The following standards apply to all land uses within this zone district:

1. All building setbacks shall be as provided in the RRA zone district.
2. The minimum lot size shall be as provided in the RRA zone district, except that the total number of residential lots within the district shall not exceed that identified in the Diamond Tail Master Development Plan as filed in the Office of the Sandoval County Clerk on March 5, 1997, in Volume 3, Folio 1587-A.

Sec. 9(2.13). - West Placitas Design Overlay Zone.

A. The purpose of this Overlay Zone is to allow for the continuation of nonresidential uses in those areas where they already exist in the western portion of the Placitas area. The Overlay Zone further recognizes those uses originally approved by the former Town of Bernalillo, Sandoval County, New Mexico Extra-Territorial Zoning Authority and subsequently by County Ordinances 10-11-18.7B1 through 10-11-18, 7B6 establishing Special Use districts and approved by the Board of County Commissioners on November 18, 2010. This Overlay Zone applies to the areas where it is mapped in addition to the provisions of the underlying Special Use districts approved for the properties in

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question. Where the provisions of this Overlay Zone conflict with those of the Special Use districts, the more stringent of the two shall apply.

B. Design Standards for Nonresidential Development. The following design standards are considered a portion of the Comprehensive Zoning Ordinance and are enforceable as such. All new nonresidential development within this Overlay Zone shall be subject to the following requirements in addition to those of the underlying Special Use District:

1. The maximum footprint of any building shall be 25,000 square feet, though 10,000 square feet is preferred.
2. The combined floor area of all buildings on any lot shall not exceed 50% of the total area of the lot.
3. The parking requirements in Section 9(4) of this Ordinance shall apply.
4. Any new nonresidential buildings on the properties in question shall be as represented on a Site Development Plan approved for such by the Planning & Zoning Commission. Such a Site Development Plan will include buffering between commercial and residential uses that incorporates features such as berms, walls, and landscaping.

Sec. 9(3). - RC Rural Commercial District.

A. *Intent.* This zone district accommodates the development of business, commercial, service-related, and limited industrial activities that are provided with adequate infrastructure and that would not cause a detriment to any abutting lands in residential use. This district consists of areas where such development should logically locate because of established land use patterns, planned or existing public facilities, and appropriate transportation system capacity and access. Although this district allows a mixture of land uses, there are controls intended to minimize or buffer any nuisances caused by such land uses.

B. *Permissive Uses.* Any of the following uses are allowed in this zone district with the provision that any such use may be referred by the Zoning Officer to the Zoning Commission to determine compliance with the regulations and intent stated herein:

1. All uses that are permissive uses in the RRA zone district;
2. Business, service, and commercial establishments provided the maximum floor area for each establishment shall not exceed twenty-five thousand (25,000) square feet;
3. Commercial greenhouses, plant nurseries, and landscapers;
4. Kennels, animal shelters, veterinary hospitals;
5. Animal feed stores, tack shops, farm equipment sales;
6. Government and government affiliated operations, activities, and accessory structures except as otherwise provided in this Ordinance;
7. Public and private schools and related facilities;
8. Churches and related facilities;
9. Day-care and child-care services as regulated by the State of New Mexico;
10. Cemeteries; and
11. Public Utility Structures such as a transformer, switching, pumping, or similar technical installation essential to the operation of a public utility except as provided for in Section 13(D)(7) of this Ordinance.

C. *Conditional Uses.* The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:

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1. Family Cluster Development.
2. Multiple dwelling units, provided that the gross density for any lot shall not exceed that permitted by the New Mexico Environment Department except that if community water and sewer systems are available a Floor Area Ratio of up to 0.3 may be permitted for each lot.
3. Limited industrial activities subject to the following regulations:
    a. The manufacturing, processing, assembling, renovating, treatment, storage, or warehousing of raw materials, goods, merchandise, or equipment shall be conducted within an enclosed building and/or within an area completely enclosed by a fence or wall;
    b. No building for manufacturing purposes shall exceed fifty thousand (50,000) square feet in floor area;
    c. No building for manufacturing purposes shall be located less than one hundred fifty (150) feet from any residential structure, except for a resident caretaker dwelling;
    d. No complete manufacturing operation shall exceed ten acres in size;
    e. All buildings on a manufacturing site shall not cover an aggregate area of more than forty percent (40%) of such site; and
    f. All manufacturing activities shall be conducted in accordance with State and Federal environmental standards.
4. Salvage yards for scrap material, including automobile bodies, provided that:
    a. All activities are conducted within an enclosed building or within an area completely enclosed by an opaque fence or wall not more than six feet in height;
    b. Outside storage of salvage materials or automobile bodies may not be stacked higher than the surrounding fence or wall and shall not be visible from any nearby road or surrounding properties; and
    c. The entire site for a salvage yard shall not exceed five acres,
5. Communications Towers as regulated by County Ordinance No. 03-10-16.11A;
6. Commercial stables, rodeo arenas, polo grounds, and riding academies;
7. Any commercial enterprise in which activities may be conducted earlier than 6:00 a.m. or later than 9:00 p.m.; and
8. Planned commercial development comprising an area of ten acres or more. This does not include uses that, not withstanding this section, require a Conditional Use or Zone Map Amendment under the terms of this Ordinance.

D. *District Standards.* The following standards apply to all land uses within this zone district:

1. All residential and residential-related buildings and structures shall be located with setbacks as provided in the RRA zone district.
2. All nonresidential buildings and structures shall be located with front, side, and rear setbacks of no less than twenty-five (25) feet.

Sec. 9(4). - Rural Off-Street Parking and Loading.

A. *Parking and Loading Space Required.* When any new structure is erected or an existing structure is enlarged, off-street parking and loading spaces as set forth herein shall be provided on site. An express purpose of these vehicle space requirements is to decrease traffic congestion and to promote the free movement of motor vehicles, including fire, rescue, police, and other emergency vehicles, within the County.

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B. *Number of Parking Spaces.* The minimum number of parking spaces to be provided shall be as follows:

1. Dwelling units: two spaces per dwelling unit.
2. Eating and drinking establishments: one space per 100 square feet of floor area.
3. Industrial, manufacturing, and wholesaling establishments: one space per two employees on largest shift.
4. Medical and dental offices, clinics, including veterinary clinics: five spaces per doctor.
5. Offices, public buildings, and service establishments: one space per three hundred (300) square feet of floor area.
6. Places of public assembly: one space per five seats when fully occupied.
7. Retail and commercial business establishments: one space per two hundred (200) square feet of floor area.
8. Rooming or boardinghouse: one space for each two sleeping rooms.

C. *Parking Design Standards.* The following standards shall be applied to off-street parking areas:

1. All parking spaces shall provide adequate access to a road or street; and
2. Each parking space shall consist of an area not less than nine feet by 20 feet.

D. *General Rules for Determining Parking Requirements.* In computing the number of off-street parking spaces required, the following rules shall govern:

1. Where fractional spaces result, the parking spaces required shall be construed to be the next highest number.
2. The parking space requirements for a use not specifically mentioned herein shall be determined by the Zoning Officer in accordance with the minimum requirements established in this Ordinance for similar uses.
3. With respect to the enlargement of an existing structure, the required number of spaces shall be determined in relation to the total size of the structure and not only with respect to the size of this enlargement.
4. Where a structure contains multiple uses, the required number of parking spaces shall be the total of all such spaces required for each type of use.
5. Where special circumstances demonstrate that the anticipated use of a particular structure more likely than not will generate a greater demand for motor vehicle spaces than the minimum number required by this Ordinance, the Zoning Officer shall require the additional number of spaces reasonably necessary to meet such anticipated demand.

E. *Parking for Physically Challenged Motorists.* For any nonresidential structure that is newly constructed or is being renovated such that an increase in the minimum number of parking spaces will be required, at least two percent (2%) of parking spaces, but not less than one space shall be set aside for the physically challenged. Such spaces shall be:

1. At least 12 feet in width and 20 feet in length, or eight and one-half (8.5) feet in width if an additional three and one-half (3.5) feet at one side is protected and available in a pathway;
2. Designated for use by the physically challenged by the international symbol of accessibility;
3. Near or centrally located between related building entrances; and
4. Located such that occupants of vehicles in these spaces can go to the related building:
   a. Without going behind parked vehicles;
   b. Along a path at least three feet wide; and

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c. Unobstructed by bumpers, curbs, or other obstacles to wheelchairs.

F. *Off-Street Loading Requirements.* Off-street loading space shall be provided for all structures that receive or distribute bulk materials by motor vehicle. Off-street loading space shall not be located on designated off-street parking space or public right-of-way.

Sec. 10. - SU Special Use District.

A. *Intent.* This zone district accommodates developments that require special consideration because of their magnitude, unusual nature, infrequent operations, questionable impact on surrounding property, or other similar reason. The boundaries of this district shall be determined on a case-by-case basis following amendment procedures provided in Section 19 of this Ordinance. Special conditions may be imposed by the County Board following recommendation by the Zoning Commission. The County Board may not grant a Zone Map Amendment for establishment of a Special Use District unless satisfactory provisions have been made:

1. To ensure that compatibility of property uses shall be maintained in the general area;
2. To preserve the integrity and character of the area in which the Special Use District will be located, and the utility and value of property in the Special Use District and in adjacent zone districts; and
3. To ensure that the Special Use District will not become detrimental to the public health, safety, or general welfare of the County.
4. To assure that the Special Use District will not conflict with the Sandoval County Comprehensive Plan or any other applicable land use plans adopted by the County.

B. *Application.* Each application for a Zone Map Amendment for establishment of a Special Use District must follow amendment procedures as stated in Section 19 of this Ordinance, must declare the proposed use, and must be accompanied by a site development plan (except for an incremental Planned Area Development that is subject to specific provisions described elsewhere in this Section) of sufficient size and scale in order to:

1. Show boundaries and topography of the property to be developed;
2. Show the proposed size, location, use, and arrangement of all structures, signs, parking and loading areas, drainage facilities, landscaping, and traffic and pedestrian circulation routes; and compliance with Section 14 of this Ordinance; and
3. Indicate the location, type, use, and size of structures on adjacent properties within 500 feet of the proposed Special Use District boundary.

C. *Removal of Zones.* In the event that a use authorized as a Special Use District is permanently discontinued, the Special Use District may be cancelled and removed under the provisions for an amendment to this Ordinance. That area delineated by discontinued Special Use District shall be rezoned to the prevailing zone district as determined by the County Board following recommendation by the Zoning Commission.

D. *Uses Allowed in Special Use Districts.* A Special Use District may be authorized only for uses designated by the County Board, including the following:

1. Asphalt and batching plant.
2. Cemetery, mausoleum, or crematory, provided that the site shall contain at least 2 acres.
3. Cluster Housing Development, provided that the following requirements are met:

   a. *Lot Area and Setback.* The setback requirements and minimum lot size within a Cluster Housing development will be established by the Site Development Plan as approved by the County Board. In areas where any lot with an area of less than ¾ acre is proposed, a liquid

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waste disposal plan for such approved by the New Mexico Environment Department and deemed satisfactory by the Board of County Commissioners shall be required.

b. *Housing Density.* The total number of dwelling units per acre allowed within a Cluster Housing Development shall not exceed that which would have been allowed if the site were developed under its previous zoning designation. Special Flood Hazard Areas as mapped by the Federal Emergency Management Agency shall not be counted in determining housing density under this section.

c. *Open Space Requirements.*

1. Common Open Space Areas shall have a minimum dimension of 30 feet.
2. Common Open Space may form one or more areas within the development, provided that at least one area is at least 60% of the total Common Open Space.
3. Land dedicated for roadways, driveways, parking areas, and private yards cannot be counted as Common Open Space.
4. Common Open Space shall not be divided by fences, walls, or buildings.

d. *Site Development Plan Approval.* Future development within a Cluster Housing Development shall be in conformance with the Site Development Plan as approved by the County Board. This shall include the location, extent, and purpose of all Common Open Space as well as the location of proposed lots and roadways.

e. *Maintenance of Common Open Space.* The maintenance of Common Open Space shall be guaranteed via a mechanism approved by the County Board. The instrument guaranteeing such maintenance shall be recorded in the Office of the County Clerk simultaneously with the final plat of the subdivision. The Common Open Space shall be set aside in perpetuity by deed restrictions. If the maintenance of the Common Open Space is abandoned to the extent that the County Board determines that a threat to public health and safety exists, the County may utilize any means at its disposal to ensure that such a threat is abated.

f. *Ownership of Common Open Space.* The Common Open Space in an Cluster Housing Development shall be owned in one of the following ways:

1. The property owners may establish a homeowner's association organized as a non-profit corporation or trust carrying covenants that run with the land and that are recorded with the Office of the County Clerk; or
2. The Common Open Space may be a owned by a public entity or non-profit corporation granted an exemption from Federal Income Tax as described in Section 501(c)(3) of the United States Internal Revenue Code. Any proposal to transfer the Common Space to such an entity must be approved by the County Board.

g. *Special Considerations.* The following factors, where applicable, will be considered by the County Board when reviewing a proposal for a Cluster Housing Development:

1. Inclusion of agricultural uses.
2. Preservation of acequia irrigation systems.
3. Preservation of wildlife habitat and wildlife corridors.
4. Protection of the natural environment.
5. Variation of residential lot sizes and shapes.
6. The visibility of the Common Open Space both from within and without the Cluster Housing Development.
7. The preservation of important views.

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8. The furtherance of the goals and policies of any adopted Area Plan for an area within which a Cluster Housing Development is proposed.
9. Reduction of road mileage within a development.

4. Commercial feedlot, dairy, or animal slaughter house, provided it complies with the following requirements:
   a. All animal excrement is properly disposed of;
   b. Associated pests are eradicated by chemical or scientific means;
   c. Stormwater drainage is controlled to avoid pollution of water resources;
   d. Mechanical means is available for scraping and cleaning feedlot premises at all times; and
   e. A review is conducted by appropriate local, State, and Federal agencies for feedlot design and location.
5. Landfill operation for disposal of refuse, solid waste, liquid waste, septage, chemicals, or hazardous waste.
6. Mining, excavating, removing, processing, stockpiling, or distribution of rock, sand, gravel, clay, pumice, scoria, decomposed granite, or similar materials, or batching plant, provided such uses comply with the requirements of Section 10 (1) of this Ordinance.
7. Mobile Home Park, subject to the following requirements:
   a. The maximum density of the Mobile Home Park shall be subject to the approval of the New Mexico Environment Department however, if public water and sewer systems are available, then maximum density of the Mobile Home Park shall be six mobile homes per acre;
   b. Each mobile home space shall be required to maintain the following yard areas: Side to side spacing between mobile homes shall be at least 20 feet, and back to back spacing shall be at least 15 feet. The distance between any mobile home and any building shall be at least 20 feet;
   c. Any mobile home shall be located at least 30 feet from the right-of-way line of any roadway and at least 30 feet from any property line of the Mobile Home Park;
   d. All interior roadways shall be at least 30 feet wide, and shall be either paved or graveled to a standard acceptable to the County;
   e. Sites shall be kept graded, drained, and free of rubbish and litter; and
   f. Mobile homes shall be skirted with materials compatible with the siding of the mobile home.
8. Power plant or transformer yard of a public utility.
9. Adult Bookstore, adult theater, and adult live entertainment establishments provided that none of the above listed uses may be located within one-thousand (1,000) feet of a public or private school, church or any residential district, as measured from the building containing the adult establishment to the closest point of the residential district, public or private parcel, or church parcel.
10. Massage parlor, provided the establishment is not conducted on the same premises where there is a cocktail lounge, photo studio, model studio, art studio, telephone answering service, motion picture theater, or bookstore.
11. Shopping Centers, subject to the following requirements:
    a. The shopping center site shall be located with direct access to a State or Federal arterial highway, or a designated County arterial road;

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b. All buildings must be placed at least 30 feet from any property line of the shopping center land;

c. At least ten percent (10%) of the site shall be landscaped and maintained in a clean and healthy condition,

d. Outdoor light fixtures installed after the effective date of this Ordinance shall comply with the following:

1. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted;

2. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized;

3. Fixtures shall be required to have all light focused downward;

4. Exterior lighting shall be shielded in such a manner so that it does not shine onto any adjoining residential properties;

5. Outdoor light fixtures shall be limited to 16 feet in height;

6. Any illuminated on-premise advertising sign shall be turned off between 11:00 p.m. and sunrise except that on-premise signs may remain illuminated while a business is open to the public;

e. Loading docks and outside storage areas shall be screened from public roadways and abutting residential properties; and

f. Any shopping center proposal for an ultimate development containing more than one hundred thousand (100,000) square feet of floor area shall include a traffic impact analysis of traffic generated by the shopping center as it affects the surrounding roadway system.

12. Travel trailer or Recreational Vehicle Park, provided it complies with the following requirements:

a. The park site shall be graded, drained, and free of rubbish;

b. The park site shall have a wall, fence, or planted area, six feet in height, that screens the site from adjoining areas; and

c. The park shall contain individual campgrounds and each campground shall be at least one thousand five hundred (1,500) square feet in area with adequate parking such that no portion of any vehicle extends into a roadway within the park.

13. Oil and gas exploration and production, and the structures and facilities associated with that use.

14. Other uses not included herein, provided that:

a. The proposed use or combination of uses is not adequately allowed and controlled in any other zone;

b. The proposed use is not detrimental to the area in which it is proposed to be located; and

d.[c.] The proposed use is in conformance with the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County.

Sec. 10(1). - Sand and Gravel Mining.

This Section shall be known and may be cited as the Sandoval County Sand and Gravel Mining Ordinance, and is created pursuant to the enabling authority set forth in Section 3-21-14 NMSA (1965).

A. *Purpose.* This Section is adopted to provide for and protect the public health, safety and general welfare of the county.

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B. *Jurisdiction.* This Section shall apply to all portions of Sandoval County that are subject to the County's land use jurisdiction.

C. *Exemptions.* This Ordinance shall not apply to:

1. Persons who mine sand and gravel on their own properties for their own personal use to the extent that disturbance shall not consist of more than half (.05) acre in any five continuous years;

2. Off-site processing activities;

3. Exploratory activities which do not result in mining and/or removal from the property of more than ten cubic years of material; and

4. Exemptions may be approved administratively by the Director of County Development.

D. *Interpretation.* The provisions of this Section are held to be minimum requirements. Whenever any provisions of this Section conflict with other laws, rules, regulations, covenants or ordinances, the more restrictive shall govern. This Section shall be construed broadly to promote the purposes for which it was adopted. Whenever the County Board or its delegate is required by this Section to make a decision, the decision shall be in writing and supported by the Findings of Fact which are sufficient for meaningful review.

E. *Definitions.*

1. *A-Weighted.* Specific weighting of the sound pressure level for the purpose of determining human response to sound as described in American National Standard Institute (ANSI) S1.4-1983.

2. *Background Sound Level.* The A-weighted sound level which is exceeded 90 percent (90%) of the time during the period of observation, during which times sounds from routine motor vehicular traffic and other transient sources is inaudible. The period of observation need not necessarily be contiguous; however, the period of observation must be at least 10 minutes of duration.

3. *Basal Cover.* The vegetative cover or extent of cover found at the crown or base of a plant.

4. *dB(A).* Unit of sound level expressed in decibels (dB) as measured on the A-weighted scale.

5. *Discharges.* Any measurable, natural or manmade, release of water, sediment or other particulates into the environment.

6. *Disturbed Area.* The area within the property which is altered by the mining and related activities, including but not limited to road, utility and facilities construction, and materials stockpiling areas.

7. *Existing Mine.* Any sand or gravel extraction operation lawfully existing and in operation on the effective date of this Ordinance.

8. *Exploration Operation.* Any mine development exploration operation existing prior to the effective date of this Ordinance and related to the determination of the geologic and economic extent of a sand and gravel resources.

9. *Foliar Cover.* The percentage of ground cover covered by the vertical projection of the aerial portion of plants and excluding small openings in the canopy.

10. *Fugitive Dust.* Particulate matter not emitted from a duct or stack which becomes airborne during operations or windy conditions.

11. *Ground Cover.* The amount (measured as a percentage) of rock, litter, and vegetative basal cover covering the ground. This is further broken down into the components; such as percent litter, percent rock and percent basal cover.

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12. *Impulse Noise.* Any single sound pressure peak (with either a rise time less than 200 milliseconds or total duration less than 200 milliseconds) or multiple sound pressure peaks (with either rise time less than 200 milliseconds or total duration less than 200 milliseconds) spaced at least by 200 millisecond pauses.
13. *Impoundments.* A closed basin, naturally formed or constructed, having the effect or purpose of water or sediment detention or retention.
14. *Mine (mine site).* That portion of the disturbed area on the property from which the sand and gravel resource is removed or extracted by whatever means.
15. *Mitigation Measures.* Any proposed or undertaken activity taken for the purpose of lessening or eliminating adverse impacts resulting from mining and related activities.
16. *Mulch.* Vegetation residues or other materials that aid in stabilizing soils and conserving soil moisture.
17. *Native Vegetation.* Indigenous vegetation.
18. *Noise Sensitive Zone.* Areas where ensuring of exceptional quiet is of importance during day and night hours. Noise sensitive activities include, but are not limited to, residential areas, operations of schools, libraries open to the public, churches, hospitals, and nursing homes.
19. *Overburden.* Consolidated or unconsolidated materials of any nature, that overlay a sand and gravel deposit.
20. *Owner(s) of Record (as pertaining to the mine property).* Is defined by any one or a combination of the relationships outlined in a. and b. below:

    a. (1) Being a permittee of a sand and gravel operation;

       (2) Based on instruments of ownership or voting securities, owning of record in excess of 50 percent of an entity; or

       (3) Having other relationships which give one person authority directly or indirectly to control the manner in which an applicant, an operator, or other entity conducts sand and gravel operations.

    b. The following relationships constitute ownership or control unless it can be demonstrated that the person subject to the presumption does not in fact have the authority, directly or indirectly, to control the manner in which the relevant sand and gravel operation is conducted:

       (1) Being an officer or director of an entity that mines sand and gravel;

       (2) Being the operator of a sand and gravel operation;

       (3) Having the ability to commit the financial or real property assets or working resources of an entity to the mining of sand and gravel;

       (4) Being a general partner in a partnership;

       (5) Based on the instruments of ownership or the voting securities of a corporate entity, owning of record 10 through 50 percent of the entity;

       (6) Owning or controlling sand and gravel resources to be mined by another person under lease, sublease or other contract and having the right to receive such sand and gravel after mining or having authority to determine the manner in which that person or another person conducts a sand and gravel mining operation; or

       (7) Owning the property on which any portion is used for the mining of sand and gravel.

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21. *Owners of Record (as pertaining to public notice requirements of this ordinance).* Property owners on record with the Office of the Sandoval County Assessor as of 30 days prior to the date of any public hearing held pursuant to the provisions of this ordinance, but no earlier than 45 days prior to the date of the hearing, or otherwise having any indicia of ownership of the real property.

22. *Post-Mining Land Use.* Specific uses or management-related activities that follow closure of a mine.

23. *Property.* Lands that have a legal description and recorded ownership attached, that are the subject in part or in whole to mining, or proposed mining related activities.

24. *Property-line-noise-source.* Any equipment or facility, or combination thereof, mobile or stationary, which is capable of emitting sound beyond the property line of the land on which the mining operations are conducted.

25. *Reclamation.* Those activities taken to return mined and disturbed lands to an approved post-mining land use, or to the pre-mining condition of the property. These activities may include: backfilling, grading, compacting, soil stabilization, reseeding, re-vegetation, planting of nursery stock, or any other reclamation activity that serves to return the property to its pre-mining condition.

26. *Sand and Gravel.* Rock or similarly occurring consolidated or unconsolidated, naturally occurring materials, including but not limited to, stone, sand, gravel, aggregate, and riprap.

27. *Suitable Material.* Soil, subsoil or geologic material with sufficient nutrient content and that can be used to support vegetation in a post-mining land use.

28. *Traditional Community.* A community which has been continuously occupied since 1925 or earlier.

F. *Rezoning and Preliminary Plat Review Approval Process.*

1. *Site Criteria Performance Standards.*

   a. Mining special use rezoning may only be approved if similar uses have been established as nonconforming on contiguous or adjacent locations; or if the rezoning is compatible with neighboring uses.

   b. Special use rezoning for mining may not be permitted on tracts of land smaller than two (2.0) acres in area, except as follows:

      1. Temporary extraction permits.

      2. Permits for extraction for preparation of a home site or accessory structures.

      3. Small mining operations not exceeding two (2.0) acres.

      4. These uses may be approved administratively, provided the submittal requirements of this Section and all other County ordinances are met.

   c. At the Director of County Development's discretion, additional submittals may be required or upon approval conditions may be imposed.

   d. Special use rezoning for mining will only be issued for tracts of land of such size and configuration that all setback requirements set forth in County Ordinances will be met.

   e. Special use rezoning for mining will not be issued if the boundary of the disturbance area is within 1,000 feet of residential areas, schools, traditional communities, hospitals, clinics and other health care facilities.

2. *Performance and Development Standards for Mining Special Use Rezoning.* Performance and development standards for mining special use rezoning shall be in addition to those set out in the Sandoval County Zoning Ordinance:

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a. *Terrain Management Performance Standards Soils.*

1. Soils having severe limitations, or which are shown as unsuitable for the intended purposes should not be used for the purpose unless the operator has clearly shown in the terrain management plan how these limitations shall be overcome.

2. Grading. All land excavating, grading, filling, and clearing operations shall be designed to fulfill the following requirements as outlined below.

a. Preserve, match or blend with the natural contours of the land.

i. The plan shall adequately describe how all grading and excavating operations will be performed to blend slopes and fills into the natural contours of the land.

ii. The plan shall indicate whether the operator intends to retain or replace trees and other native vegetation, to stabilize slopes, retain moisture, reduce erosion, reduce runoff, and preserve the natural scenic beauty.

iii. The plan shall prevent the deposition of sediment into floodplains, drainage channels, watercourses, and water bodies.

b. The following off-site discharges attributable to the mining activity are prohibited whether the discharge is direct or indirect:

i. Sediment and other organic or earthen materials discharged into a watercourse, water body, drainage channel or floodplain; and

ii. Materials placed in any position which would make it susceptible to erosion and deposition into a water body, drainage channel, watercourse or floodplain.

a.[c.] The plan for excavating, grading or land forming, and protective cover shall provide for the prevention of soil erosion and sedimentation.

b.[d.] The plan shall call for temporary or permanent structural measures to prevent damaging runoff waters from originating on the site.

c.[e.] Planned structural measures shall adequately provide for the limitations of the site.

c.[f.] Whenever the native ground cover is removed or disturbed, or whenever fill material is placed on site, the plan shall provide for the exposed surfaces to be treated to the extent necessary to prevent dust from blowing off the site.

d.[g.] The maximum cut and fill slopes shall be compatible with soil stability or erodibility as shown on the soil survey.

e.[h.] The plan shall include provisions to prevent runoff from flowing over cut slopes.

b. *Storm Drainage and Flood Control Management Performance Standards.*

1. Development of a mining site is almost certain to affect runoff, erosion, and sedimentation. The possible adverse affects of mining activities on runoff, erosion and sedimentation shall be carefully analyzed, and adverse impacts mitigated. All mining operations shall be planned, maintained and conducted to:

a. Protect and preserve existing natural drainage channels except where erosion and water control measures are found necessary and approved by the County;

b. Provide measures to prevent damaging runoff waters from leaving the site;

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c. Protect structures and other works from flood hazards using no less than the 100-year frequency storm for calculating flood levels. The County, in its sole discretion, may require greater flood control protection;

d. Provide a system wherein runoff water within the site is removed without causing harm or damage to the environment, property, or persons, inside or outside the site;

e. Assure that water drained from the site does not contain pollutants or sedimentary materials of a greater quantity that would occur in the absence of the mining operation; and

f. Assure that waters are drained from the site in such a manner that they will not cause erosion outside of the site to any greater extent than would occur in the absence of the mining operation.

2. All storm drainage systems shall be constructed in accordance with the standard of the Sandoval County Soil and Water Conservation District in which the site is located. The preferred method of watershed hydrology evaluation is NRCS (National Resources Conservation Service) Technical Release 55, Urban Hydrology for Small Watersheds or Chapter 2 of the NRCS Engineering Field Manual. Other methods such as HEC1, HEC2, HYMO/AHYMO, or the Rational Method are acceptable if sufficient supporting data is presented and deemed adequate by the County.

c. *Special Provisions for Mining in Arroyos Performance Standards.* In addition to all other requirements contained in this Ordinance, proposed mining operations that will take place within arroyos, watercourses or other similar drainages shall adhere to either Option A or Option B of the following operational criteria:

1. *Option A: Mining without Engineering Analysis.* At the option of the operator, in channel mining may take place without additional engineering analyses if the operation adheres to the following default restrictions:

a. No in-channel excavation shall take place within:

i. 10 feet from the toe of the arroyo banks in a straight channel reach;

ii. 10 feet from the toe of the arroyo bank along the inside channel bend on a curved reach;

iii. A setback equivalent to one-half (½) the channel width along the outside channel bend on a curved channel reach.

b. No excavation within 50 feet of property boundaries.

c. Depth of excavation shall be limited to a maximum of five feet below the low-flow channel.

d. No excavation shall take place within 100 feet downstream and 50 feet upstream of a public roadway grade crossing of the arroyo.

e. No excavation shall take place within 100 feet of any bridge or drainage structure.

f. No excavation shall take place within 100 feet of any buried utilities.

g. No excavation shall take place within 100 feet of utility poles.

h. No excavation shall take place within 100 feet of any acequias.

i. No excavation shall take place within 100 feet of any water supply well.

j. If more than one criteria apply, the more stringent shall be applied.

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k. To ensure compliance with the requirements of this Section, the operator shall establish a permanent, surveyed marker on the site. The elevation of the marker shall be established to the nearest hundredth of a foot.

2. *Option B: Mining With Engineering Analysis.* The operator, at his discretion, may submit hydrologic and geologic analyses, prepared by a qualified specialist, supporting mining criteria other than the default criteria described under Option A.

d. *Cultural Resources Protection Plan Performance Standards.*

1. In order to preserve and enhance the unique heritage of Sandoval County, mining operations shall be established in a manner that respects and avoids disturbance of historic, cultural or archaeological sites, natural and manmade landmarks, acequias, and unmarked human burials. Such sites and landmarks include, but are not limited to structures which are designated by the Official Register of Cultural Properties maintained by the New Mexico Cultural Properties Review Committee or are properties which may contain historic or pre-historic structures, ruins, sites of objects, the desecration or destruction of which would result in loss to the public.

2. A cultural preservation plan shall be required for each proposed mining operation. The plan shall consist of the following:

a. A detailed description of historic, cultural or archaeological sites that are more than 50 years old on the property;

b. A description of how the proposed mining activity will disturb or adversely impact identified historic, cultural or archaeological sites and artifacts located on the property;

c. A description of how adverse impacts will be mitigated, including methods of restoration, preservation, and salvage; and

d. The identity and qualifications of all individuals who are involved in the preparation and implementation of the Cultural Resources Plan.

e. *Unmarked Human Burials.*

1. According to state and federal law, 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.

2. All applicants shall comply with the requirements of NMSA 1978, § 18-6-11.2, which prohibits the knowing, willful and intentional excavation, removal, disturbance or destruction of any human burial, buried or entombed or sepulchered in any unmarked burial ground except by 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.

f. *Registered Cultural Properties.* Any person desiring to extract sand and gravel in the County and affecting registered cultural properties shall comply with the Cultural Properties Act, NMSA 1978, §§ 18-6-1 through 18-6-17. Additional compliance may be required with Federal regulations if the mined material from the property will be used on Federally funded projects.

g. *Environmental Protection Plans Performance Standards.*

1. Any proposed mining activity shall utilize standard techniques available in order to minimize noise, vibration, smoke and other particulate matter; odorous matter, toxic or noxious matter; radiation hazards; fire and explosive hazards; or electromagnetic interference. If it is determined that the development will create any dangerous, injurious, noxious or otherwise objectionable condition, noise or

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vibration; smoke, dust, odor or other form of air pollution, electrical or other disturbance, glare or heat, in a manner which causes a significant adverse impact to the adjacent areas, a plan shall be submitted which states how such conditions will be mitigated.

2. Environmental protection plans shall consist of the following:

   a. An air quality protection plan;

   b. A noise and vibration mitigation plan;

   c. A visual impacts mitigation plan;

   d. Detailed descriptions and graphics showing the steps and methods that will be taken to protect the environment and mitigate adverse impacts; and

   e. Plans that are prepared and implemented in a manner consistent with all applicable County, State and Federal rules, regulations and permit conditions.

h. *Air Quality Performance Standards.*

1. A dust abatement plan shall be submitted with the application and development plan to the Director of County Development.

2. Sand and gravel mining and processing operations shall use dust suppression techniques so there are no visible emissions beyond property boundaries.

3. Truck traffic areas and haul roads going in and out of the site shall be watered, treated with a surface stabilizing agent, or paved with an appropriate surface as necessary.

4. Sites of overburden removal and active pit areas shall be watered as necessary dependent upon existing wind speeds and soil moisture content.

5. Areas of disturbance shall be minimized to the extent feasible.

6. All loads shall be covered.

7. Should the Director of County Development deem it necessary, the operator shall maintain certified daily records of hours and dates of operation, the daily production rates and activities, and the frequency of application of water or equivalent dust suppression methods. This information shall be retained at the site and shall be made available to County personnel upon request.

8. Should the nearest school, residence, office building, or occupied structure, excluding the immediate operations complex, not be more than two miles from the site or the access road, dust control measures with regards to this Ordinance may be reduced or waived at the discretion of the Director of County Development.

i. *Sound and Vibration Mitigation Performance Standards.*

1. A Sound and Vibration Mitigation plan shall be submitted with the application to the Director of County Development. The plan shall include:

   a. A description and location of all significant sources of noise and vibration (mobile and stationary) that will be associated with the proposed mining and processing activity;

   b. A description of existing and proposed sound and vibration abatement measures, and the schedule of their implementation (if any);

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c. The predicted sound level estimated out to a radius of one-half mile from the mining property line as of the date of this ordinance as a result of implementation of the proposed operation with abatement measures;

d. A description of how vibration from off-site heavy equipment and truck traffic associated with the proposed mining operation may affect structures on properties adjacent to travel routes taken by the heavy equipment and trucks; and

e. A description of vibration mitigation measures for heavy equipment and truck traffic that will be taken (i.e. traffic volume, speed and weight limits, access and route control).

2. Noise Performance Standards.

a. Sound abatement measures under this Section do not apply to any equipment or facility, or combination thereof, that are incapable of emitting sound beyond the property line on which operated.

b. A sand and gravel mining operation shall not cause or allow the emission of any sound from any property-line-noise-source (impulse or continuous) which exceeds the allowable A-weighted sound levels specified in the following table when measured at any point:

Classification of Adjacent Land Use Allowable Sound Pressure Levels(dB) of Emitted Sound	
Residential, Single-Family, Mobile Homes	70 dBA
Residential, Multifamily	70 dBA
Schools, Churches, Hospitals, Nursing Homes	70 dBA
Offices, Business, Commercial and Professional Buildings	70 dBA
Industrial, Utilities, Agricultural	75 dBA
Undeveloped Public Lands	75 dBA

c. In mixed-use areas the more restrictive allowable sound emission level shall apply

d. Should background sound levels exceed the above, noise produced from sources other than at blasting shall not exceed, at the mine property boundary 10 dB(A) past above background in a residential zone, and 16 dB(A) past at all other boundaries.

e. The peak noise from any blast shall be limited to 130 dB (unweighted) at the boundary of the mining property.

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f. All sound pressure levels shall be measured at the mining property line. All measurements shall be made following the appropriate and most current ANSI or equivalent procedures. Measurements shall be made during times the property-line-noise-source(s) are operating.

g. No property-line-noise-sources, stationary and mobile, shall be operated during the following holidays in a non-industrial zone: holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

h. Property-line-noise-sources, stationary and mobile, and including heavy equipment traffic, shall be limited in operation near a residential zone, or at a boundary of a nonindustrial portion of a mixed-use zone, from 5:00 p.m. to 8:00 a.m.

i. Sounds emitted from mandatory emergency devices shall not be regulated by this ordinance except that property line noise sources, stationary and mobile, and including those emitted from heavy equipment and trucks shall not be operated from 5:00 p.m. to 8:00 a.m.

3. Vibration Performance Standards.

a. Vibration due to blasting shall be limited to a maximum resultant peak particle velocity in any plane at the site of a protected structure for the following:

Peak Particle Velocity (Inches/second)	F Frequency (Hz)
0.20	1 or less
0.75	1—12
0.80	13
0.90	14
1.00	15—100

b. In addition, the Director of County Development may further limit such blasting vibration where, in his/her opinion, the density of population or other resources in the area warrants additional protection.

c. Blasting shall be restricted to the hours of 9:00 am to 5:00 pm. No blasting shall occur on Saturdays or Sundays.

[j]b. *Visual Impacts Mitigation Performance Standards.* Adverse visual impacts due to the mining or processing activities shall be avoided or minimized to the extent practical through the following location and site design techniques:

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1. Minimizing the area of disturbance due to the mining activity pursuant to a phasing program;
2. Minimizing excavation in visually sensitive areas;
3. Avoiding location of structures, machinery and equipment storage and repair areas, utility lines, access roads, mined material stockpiles, and mine waste piles in visually sensitive areas;
4. Locating, designing or screening excavated portions of the mine site, structures, machinery and equipment storage and repair areas, utility lines, access roads, material stockpiles and mine waste piles in a manner sensitive to the natural color, form and texture of the surrounding area; and
5. Protecting visually sensitive areas visible along highways, and state, county or federally designated scenic areas, areas visible from traditional communities and contemporary communities.

[k.]l. *Lighting Performance Standards.*

1. The applicant shall provide outdoor lighting as necessary to enhance the safety of the site. Outdoor lighting shall be designed in a manner that not only enhances worksite security and public safety but in a manner that conserves energy and prevents spillover, nuisance or hazard effects of light and glare on adjacent locations and uses of land.
2. An outdoor lighting plan shall be submitted that shows the location, mounting height, types of luminaries, accessory equipment such as shades and deflectors, and the beam direction. The manufacturer's photometric data shall also be provided. All light sources shall be shielded so that they are not directly visible from adjacent residences. All light bulbs shall be shielded. Low or high pressure sodium lamps or other energy efficient sources shall be used in all installations. Spillover of lighting into adjacent residential properties shall not exceed one half of one (0.5) foot-candle measured at any point ten feet beyond a property line.

[l.]m. *Safety and Traffic Control Performance Standards.*

1. *Blasting.* All blasting shall be carried out in compliance with all applicable Federal and State standards and permitting requirements. Copies of all applicable permits shall be provided to the County at least 30 days prior to blasting. The operator shall provide reasonable notice of the planned blasting schedule to the public in the area likely to be affected by blasting noise and vibration.
2. *Roads and Traffic.*
   a. If an applicant seeks to permit a sand and gravel mine within 100 feet of the outside right-of-way of a public road or to relocate a public road, a concise description of the public road, the particular part to be relocated, where and when the relocation is to occur, and the duration of the relocation.
   b. The applicant shall submit a traffic route plan that illustrates all likely private and public roads that will be used by the operation to transport heavy equipment, supplies and sand and gravel within a ten mile radius of the property or to the nearest paved state or federal highway with a level of service equivalent to U.S. 84-285 and S.R. 68.
   c. The amount of traffic generated by the mining and processing activity shall not cause public roads to operate at a level less than what can be met by current capacity and structural conditions, or cause deterioration to County roads as a result of the activity without just compensation to the County.
   d. If it is determined by the County that the mining operation will increase the burden, or cause deterioration to any County road, the operator shall be

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required to undertake a pro-rata share of the cost of improvements or repairs to the County roads which are shown to be caused by the mining-related use. The County Public Works Director will determine the pro-rata share.

3. *Signs and Markers.*

a. The mining operator shall provide perimeter and other on-site and off-site signs and markers advising the public of the mining activity and related hazards that may be present including but not limited to, warning of truck traffic, open pit hazards, open water hazards, operating equipment, blasting, stockpile and waste pile collapse.

b. The operator shall submit a signage plan that shows the number, type, size and location of signs and markers.

c. The signs required under this Section shall:

i. Be posted and maintained by the person who conducts the sand and gravel mining operations, in addition:

A. Shall be maintained during the conduct of all mining related activities;

B. Shall be posted at each point of access to the permit area from public roads;

C. [Shall] be posted on the perimeter of a permit area before the beginning of mining operations;

ii. Be of a uniform design such that they can be easily seen and read;

iii. Be constructed of a durable material; and

iv. Conform to all state and local ordinances.

[m.]n. *Reclamation Plans Performance Standards.*

1. A reclamation plan is required for the mine site and associated disturbed areas, and for each phase of the mining operation. Reclamation are those activities taken to restore mined and disturbed lands to an approved post-mining land use. These activities may include; backfilling, grading, compacting, soil stabilization, reseeding, re-vegetation, and planting of nursery stock. A contemporaneous plan may be required if the County Board determines the need for such a plan.

2. The plan will address issues of long-term soil and slope stability, water quality and water conservation, and compatibility with the surrounding environment and land uses. The County Board may make reasonable allowances that recognize future land use and areas that cannot be practically re-vegetated because of slope, rock substrate conditions or other limiting factors.

3. Plan Requirements. A reclamation plan shall consist of the following:

a. A determination of which parts of land shall be reclaimed; (The operator, in consultation with the owner and the County, and subject to the approval of the County, shall determine which parts of the land shall be reclaimed.)

b. A description of post-mining land use, including concurring documentation from the legal or equitable owner of record of the surface of the mining property;

c. A description of how reclamation is to be achieved;

d. An estimated timetable for each phase of the mining operation and contemporaneous reclamation activities;

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e. An estimated cost of accomplishing each phase of the reclamation plan;

f. A description of the manner in which the plan is consistent with local physical, environmental and climatological conditions, both on-site and in the general area as follows:

i. A description of all streams, arroyos and bodies of water;

ii. A description and maps of soils and geologic conditions;

iii. A scaled plan in cross-section showing existing and planned profiles of slope of affected areas;

iv. An inventory of existing vegetation, wildlife and wildlife habitat;

v. A plan for revegetation, including but not limited to descriptions of the quantities of each species of vegetation that will be used, time and method of planting, proposed seeding rates, use of fertilizer, mulching and supplemental irrigation;

vi. A detailed description of measures to limit soil erosion and off-site sediment transport; and

vii. A detailed description of measures to be taken to ensure protection of surface and groundwater quality and water conservation.

4. Reclamation Performance Standards.

a. All reclamation activities shall comply with applicable state and federal laws and regulations.

b. Disturbed areas shall be restored to standards set forth in the approved reclamation plan. These standards shall be measurable and verifiable.

c. Reclamation shall be conducted as contemporaneously as possible with the mining operations.

d. Reclamation shall result in the establishment of structurally stable slopes and soils through the use of compaction, the use of vegetation and/or engineered materials.

e. When backfilling pits is part of the reclamation plan, such backfilling or earthmoving operations shall be conducted so as to assure both stability of the materials and the protection of groundwaters, such that adjacent properties are not damaged.

f. Any mine waste material piles will be stabilized and protected to ensure they do not degrade air, surface water and groundwater quality.

g. In the revegetation portion of the approved reclamation plan, topsoil or other suitable rooting medium shall be replaced and the affected land shall be revegetated in such a way as to establish a diverse, effective, and long-lasting vegetative cover that is capable of reseeding itself and spreading. Revegetation should be at least equal in extent of cover to that of the natural vegetation of the surrounding area. Native species shall comprise the largest proportion of the seed mixture.

h. Plants that die or are not established after a two year period shall be replaced. Revegetation shall be monitored for a minimum of three years. The success of reseeding and revegetation shall be demonstrated by the operator and approved by the County. Success of revegetation shall be measured by techniques approved by the County or a professional expert. Measurements of foliar and basal cover shall be taken no sooner than the third year following planting. The vegetative cover (both foliar and basal)

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shall be deemed successful if these are 80% or greater within three years of planting, of the quantitative standard. If vegetative cover is not sufficient, additional efforts of revegetation shall be undertaken and additional efforts of revegetation and additional measurements of revegetation success shall be conducted two years after each planting.

i. Upon cessation of mining, all buildings, structures, mining waste piles and other related items not necessary for environmental protection of the mine site, shall be removed, reclaimed or stabilized according to the approved reclamation plan.

j. If a new, post-mining land use is not established and implemented within six months of a mine's closure, reseeding or planting of vegetation is required on all disturbed portions of the site. Such revegetation effort shall include both native and introduced species to insure stabilization of the mine site.

3. *Additional Required Submittals for Mining Special Use Rezoning.* In addition to the information required by this Section, the applicant shall provide the following information:

a. Name and mailing address of the applicant or designated agent;

b. Name of owner or owners of the land;

c. A description of surrounding land uses and a terrain management plan which shall include:

1. *Vicinity Map.* A map, 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, watercourses and water bodies within one and half (1.5) miles of the site. This map shall display the topographic contours at 20-foot intervals. A mark-up of a USGS topographic map is acceptable.

2. *Natural Features Map.* A map of the site (at the same scale as the preliminary plat map) showing directly, by overlay, or by narrative where appropriate:

a. The boundaries of the site;

b. The existing contours with intervals of not less than 20 foot where the slope is less than 8% and not more than five feet where the slope is 8% or greater;

c. All areas with natural slopes of 25% or greater clearly recorded by scale, line, or color;

d. The location of all drainage channels, watercourses, and water bodies;

e. The location of all major rock outcropping; and

f. The location of the major vegetation types showing the plant species included and the cover density.

3. *Soil Survey.* A soil survey of the site including:

a. An overlay of the natural features map showing the location of each soil type;

b. A description of the soil types; and

c. Interpretations of the limitations from a soil survey for each soil type.

4. *Grading Plan.* A series of maps, cross sections, and profiles showing the location and impact of the planned mining to the natural land form shall include:

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a. An overlay of the natural features map showing the location of all proposed excavations, roadways, water and erosion control structures, and utilities and utility easements in relation to the existing contours;

b. An overlay showing the finished contours after mining is completed using contour intervals equal to or less than those on the existing contour map;

c. The location of all cuts and fills, including the grades, lengths, and depths thereof displayed using the necessary cross sections and profiles to adequately describe and display the planned mining;

d. The location of all areas where the planned mining and associated activities will be changed by more than three feet;

e. Description of methods of stabilization in areas of cut and fill, embankment compaction, and re-vegetation of steep slopes; and

f. If mining is to take place within an arroyo bed, a predevelopment profile and cross sections of the arroyo shall be prepared. The profile shall extend at least 200 feet upstream and 200 feet downstream of the proposed excavation site. Cross sections shall be taken at 100-foot intervals and shall extend at least 100 feet beyond each bank top. No mining shall be permitted unless the natural flow of the arroyo is sustained in a manner acceptable to Sandoval County.

5. *Erosion and Drainage Plan.* This shall include the necessary charts, drawings, location maps, and calculations to support the plan:

a. A watershed map showing all the upper watershed area draining into or through the site; it should show the watercourses and topographic conditions;

b. Storm drainage computations for the 100-year frequency storm both reaching and leaving the site in the predevelopment conditions;

c. Storm drainage calculations for mining and post mining conditions; and

d. The location, type, and size of all proposed drainage and erosion control structures with adequate detail of the design and supporting calculations.

6. *Water and Water Quality.* This shall include any required State of New Mexico approvals for water availability and stormwater discharge.

a. A letter from the Office of the State Engineer attesting to the availability of sufficient water rights to support the operation of the proposed facility.

b. A New Mexico Environment Department stormwater discharge permit for the proposed facility, or a letter from the Department stating that such a permit is not required.

7. *Construction Schedule.* This shall include statements describing:

a. The start and finish dates for all land clearing and grading activities;

b. The duration of exposure of disturbed areas;

c. The stabilization date for disturbed areas; and

d. The installation date of all storm drainage system components.

4. *The Process for Application for Mining Special Use Rezoning, Hearings and Administrative Procedure.* The process for making application for a sand and gravel mining special use rezoning shall be as set forth in Section 19 of this Code.

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5. *Professional Expert or Consultant Review.* If it is necessary for the County to hire a consultant to assist in the review of a mining rezoning application, said consultants fee shall be assessed to the applicant or developer.

6. *Application Review For Sand and Gravel Mining Special Use Rezoning, Subdivision Of Land For Mining Uses And Building Permits For Mining Uses Process.* Applications for mining special use rezoning, subdivision of land for mining use and building permits for mining uses shall be processed as provided in County Ordinances.

   a. *Original drawing of final plat.* 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 plats shall be prepared at a scale of 200 feet to one inch or larger, and printed on sheets no larger than twenty-eight by thirty-six (28 × 36) inches. Sheets shall be numbered in sequence if more than one sheet is used. The applicant shall also submit two paper copies of the final plat and three copies of the development plan and all supporting documentation.

   b. *Map specifications.* The final plat map shall include the following information:

      1. Title, scale, north arrow, and date;
      2. Permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
      3. Tract boundary lines, and easement and right-of-way lines;
      4. Acreage of mining area to the nearest one-hundredth (0.01) of an acre;
      5. Ownership of contiguous lands;
      6. Location of utilities;
      7. Delineation, if applicable, of any 100-year floodplain as designated by the Federal Emergency Management Agency;
      8. Names and addresses of the owner or owners of the land to be mined;
      9. The certification of surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey; and
      10. Legal description indicating the range, township, and section within which the site is located;
      11. Any other information deemed necessary in the County's sole discretion to protect the public health, safety and welfare.

   c. *Final Requirements Prior to Commencement of Mining.* Sand and gravel mining shall not take place within the County on lands that have not been specifically zoned for such purposes and for which plat and development plan approvals have not been obtained in accordance with the provisions of County Ordinances. The County Board, in considering either approval or conditions for approval of mining use rezoning, may take into consideration the past or current performance of the applicant at other sites and operations. The County Board shall approve the final plat and development plan if the applicant demonstrates that he can fulfill the proposals and requirements contained in the development plan and that all State and Federal agency permits applicable to the mining, and processing of sand and gravel at the site have been issued and no ground disturbance or mining shall commence on the subject property before the following conditions are met:

      1. *Final plat and development plan approval.* The development plan and final plat are approved by the County Board, and the plat is filed with the office of the County Clerk.

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2. *Financial security.* All required securities set forth by the County Board of have been provided.

3. *Agreements.* All applicable agreements or conditions set forth by the County Board as pre-conditions to mining have been implemented.

4. *Permits.* All applicable pre-conditions to mining set forth in State or Federal permits have been met.

5. *Improvement requirements.*

   a. The applicant shall install and construct such improvements, as are required by this Ordinance and permit conditions set forth by the County Board in the manner and to the design standards provided in this Ordinance. In the absence of specific designs and specifications, the applicant shall install and construct such improvements in a manner consistent with the intent and purpose of this Ordinance.

   b. Before construction of any improvements or the submission of any bond or other performance security, the applicant shall furnish the County with all plans and specifications necessary for construction of such improvements. These plans shall be reviewed by the Director of County Development and, if in accordance with this Ordinance and permit requirements, shall be approved by the County, allowing mining to proceed.

6. *Improvement Guarantees Assurance.* In order for the County to be assured of the completion of all required improvements, the applicant shall agree to either;

   a. Complete installation of the required improvements before final plat and development plan approval; or

   b. Ensure construction of required improvements after final plat and development plan approval.

   d.[c.] Alternatives. If the applicant wishes to submit the final plat and development plan for approval before completion of required improvements, the applicant shall post a suitable improvement's guarantee in an amount approved by the County. The amount of the guarantee shall not be less than 125 percent (125%) of the estimated cost of the required improvement. The guarantee shall be by a method acceptable to the County pursuant to this Ordinance.

   e.[d.] Financial Security. An assurance agreement in a specific sum shall be executed by the applicant as a principal and for the purposes of required improvements pursuant to this Ordinance and the Reclamation Plan. Financial Security shall be supported by the deposit of one of the following instruments with Sandoval County:

      1. A cash account, which is deposited as cash in one or more federally-insured accounts, payable only to Sandoval County upon demand;

      2. Negotiable bonds of the United States, a State, or a municipality, endorsed to the order of Sandoval County, and placed in the possession of the Director of County Development;

      3. Negotiable certificates of deposit, made payable or assigned to Sandoval County and held by a federally-insured bank;

      4. An irrevocable letter of credit of any bank organized or authorized to transact business in the United States, payable only to Sandoval County upon presentation;

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5. A perfected, first-lien security interest in real property acceptable to the County in favor of Sandoval County only; or

6. Other investment-grade rated securities having a rating of AAA, AA, or A or an equivalent rating issued by a nationally recognized securities rating service, endorsed to the order of Sandoval County, and placed in the possession of the Director of County Development.

f.[e.] Notice to proceed.

[1.] The applicant shall provide all necessary documentation to the Director of County Development, and the Director shall verify that the applicant has met all pre-conditions. Upon submittal of all documentation, the Director of County Development shall have 30 days to verify compliance.

[2.] If all pre-conditions have been met the Director of County Development shall provide the applicant with a written notice-to-proceed within 15 calendar days of submittal. If pre-conditions have not been met, the Director of County Development shall inform the applicant in writing within 15 calendar days of submittal which pre-conditions have not been met.

g.[f.] Improvement agreement. If, at the time of approval of the final plat and development plan, any improvement has not been completed by the applicant as required by this Ordinance, the County Board shall, as a condition preceding approval of the final plat and development plan, require the applicant to enter into an agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the applicant's expense.

G. *Special Procedures.*

1. *Expedited Review and Approval Procedure.* At the election of the applicant the reviews and approvals specified in this Ordinance may be combined into a single review and approval process, in accordance with the provisions of this Section.

2. *Application/Fees.* An applicant shall prepare preliminary plat and mining use permit application and supporting documents in accordance with the requirements of this Ordinance. The applicant shall also prepare a final plat and development plan and supporting documentation in accordance with the requirements of this Ordinance. Submittal is initiated by completing the applications on prescribed forms available from the Director of County Development, and upon payment of the required administrative fees.

3. *Application deemed complete.* On receipt of the applications, fees, plats, and supporting documentation, the Director of County Development shall review all materials in order to determine if the applications are ready to begin the review process. If there are no deficiencies, the applications are deemed complete for review by written notice to the applicant 60 days after the date of application. If the applications are incomplete or do not comply with the submittal requirements provided herein, the applicant shall be notified and be given a maximum time period of 75 days to correct the deficiencies and return the application for consideration. This time period may be extended upon written request to the Director of County Development. If after 75 days the application remains incomplete, the application will be voided and the application fee will be retained by the County.

2.[4.] *Public Hearings, Notice Participation and Record.*

a. Public hearings and notice of public hearing shall be as otherwise provided in Section 15

b. Participation in public hearings and record thereof shall be as provided by Section 15

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H. *Vacation of Plats.*

1. *[Purpose.]* Any final plat on file in the office of the County Clerk may be vacated if as a result of an application for a mining permit use or subdivision for purpose of mining may be vacated if:

   a. The owners of the land sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated, and the declaration is approved by the County Board; or

   b. The County Board finds that the plat was obtained by misrepresentation or fraud and order a declaration of vacation be prepared by the County.

2. *Statement of vacation.* The vacation of all or a portion of a final plat shall be initiated by submittal of the declaration of vacation to the County Clerk.

3. *Scheduling and notification.* Within 60 days after the date of receipt of the declaration of vacation from the owner, the County Board shall approve or deny the declaration of vacation, subject to the following:

   a. Action shall be taken at a public meeting;

   b. At least 15 calendar days before the proposed meeting, all owners of record of adjacent properties 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 County Board.

4. *Action.* In approving the declaration of vacation of all or part of the final plat, the County Board shall decide whether the declaration of vacation will adversely affect the interests of persons on contiguous land.

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 declaration of vacation is recorded.

I. *Variances.* Applications for variance for issuance of a mining permit use shall be as provided in this Section.

J. *Existing Current Uses/Grandfather Clause.*

1. Legal nonconforming uses shall be determined pursuant to Section 16, and in addition, a nonconforming use of extraction or exploration shall not be recognized unless the operator provides to the Director of County Development within 90 days after the effective date of this Ordinance a description of operations on the effective date of this Section. Within 180 days the applicant shall submit:

   a. Documentation which conforms to the requirements set forth in this Section; and

   b. Copies of all permits or approvals which it holds from State and Federal agencies.

2. For the purposes of this Section "discontinued" means for an extraction site, no extraction by the operator has occurred for more than 6 months and for an exploration site, no exploration has occurred by the operator for more than six months.

   a. The Director of County Development shall investigate all claims of nonconforming use through independent field checks, inspections and interviews. The findings of these field inspections shall document through a narrative report and photographs the historical extent of any exploration or extraction use on each property.

   a.[b.] The Director of County Development after consultation with a professional expert determines that a claimed nonconforming use creates a dangerous, injurious, noxious or otherwise objectionable condition which causes an adverse impact to the surrounding areas or uses, the person seeking to exercise the legal nonconforming

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use status shall submit a plan and a time schedule for action which states how such conditions will be mitigated and if the plan is not implemented the nonconforming use status shall expire.

K. *Administrative Fees.* Any person desiring to mine sand and gravel in the County shall pay the administrative fees set by the County in Section 23

L. *Enforcement, Penalties, and Remedies.* Enforcement, penalties and remedies shall be as provided in Section 24

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

Sec. 11. - MP Master Planned District.

A. *Intent.* The purpose of this zone district is to permit and encourage the unified planning of large areas or mixed use developments in order to achieve the mixture and variety of land uses that such large scale planning makes possible. The boundaries of this zoning district shall be determined on a case-by-case basis following amendment procedures provided in this Section. A Zone Map Amendment to this District must be sought for any development that will result in 100 or more dwelling units at full build out and that meet the following requirements of this Section:

1. Result in a development with land uses that are not allowed as permissive uses in a residential zoning district.
2. That meets other requirements of this Section.

In addition, a Zone Map Amendment to this District must be sought for any tract of land within the I-25-Bernalillo Interface Overlay Zone when multiple family residential or nonresidential uses are proposed, regardless of the size of the property.

B. *Application.* Each application for a zone change to establish a Master Planned District must be accompanied by the following information:

1. A conceptual development plan that includes:
   a. A vicinity map showing the boundaries and acreage of the proposed Master Planned District and the adjacent properties indicating existing uses;
   b. A delineation of any sub-areas intended for phased development or for distinctive uses, indicating the number of acres and nature of each sub-area;
   c. A statement of the distribution, type, and intensity of land uses within the proposed Master Planned District; and
   d. A statement of the proposed traffic or transportation circulation system and its public features;
2. A development plan for all or each portion of the Master Planned District (if phased development is proposed) that contains the following:
   a. The boundaries and topography of the site;
   b. A legal description of the site;

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c. The location and acreage of various land uses, including the number of dwelling units in residential areas;

d. Specification of the proposed public dedications and easements; and

3. A supportive data document containing statements and information concerning:

a. The purpose and intent of the Master Planned District;

b. The development phasing schedule (if applicable) showing dates for anticipated initiation and completion of each phase of the Master Planned District;

c. A descriptive and/or graphic representation of any perimeter treatment and/or buffer areas proposed for the Master Planned District with respect to the surrounding land uses;

d. The principal effect of the Master Planned District on the surrounding community with respect to traffic and transportation sources for water supply, disposal of solid and liquid waste, schools, fire protection, police protection, and population growth; and

e. The consistency of the proposal with the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County.

C. *District Standards.* The following standards apply to all land uses within this zone district:

1. The gross residential density in a Master Planned District shall not exceed that which would have been allowed if the site were developed under its previous zoning designation, except as otherwise provided in Section 11 (D) of this Ordinance.

2. A minimum of two percent (2%) of the acreage of the Master Planned District shall be designated as open-space common area for recreational use, provided that there shall be a statement of:

(a) Ownership of the common areas;

(b) Appropriate covenants forbidding partition for future sale and/or non-recreational development;

(c) Maintenance responsibility; and

(d) Funding of such maintenance of the common area.

3. The County Board may impose:

(a) Building height restrictions;

(b) Setback requirements;

(c) Minimum lot sizes; and

(d) Other conditions and restrictions that reasonably relate to and advance the purposes of this Ordinance, the Sandoval County Comprehensive Plan and/or other applicable land use plans adopted by the County.

4. The County Board may require that commercial, service, and employment center uses be provided in appropriate locations within the Master Planned District in conformance to the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County.

5. Any recreational facilities provided within open space areas shall be fully improved by the developer and shall be maintained in perpetuity by a homeowner's association or similar entity as approved by the County Board.

6. Any proposed Master Planned development within the I-25/Bernalillo Interface Overlay Zone shall demonstrate connectivity of internal pedestrian trails and networks as well as connectivity to trail networks associated with the 550-Sandoval Rail Runner Station. Such Master Planned

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developments shall promote the overall goals of Transit Oriented Development as adopted by the Placitas Area Plan.

D. *Gross Residential Density Bonus.* The County Board may allow a gross residential density of up to 3.0 dwelling units per acre for a Master Planned District upon recommendation of the Zoning Commission where, in addition to satisfying other applicable requirements, it is established that the proposed Master Plan District development:

1. Substantially furthers the goals and policies of the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County.
2. Includes innovative development design criteria and features that enable the development to conform to the natural character of the area.
3. Protects the natural environment through considerations designed to minimize environmental impacts to the greatest degree possible consistent with the proposed uses.
4. Provides for a variety of residential lot sizes and shapes, and structure heights and designs.
5. Demonstrates efficient utilization of existing roadways and limitation of traffic generation to the greatest degree possible consistent with the proposed uses.
6. Demonstrates exceptional architectural control, enforced via a provision approved by the County Board, that allows new development to blend into and enhance the natural character of the area.
7. Makes adequate provision for necessary law enforcement facilities to serve the present and anticipated future needs of the development.
8. Makes adequate provision by the applicant for necessary fire protection and emergency services facilities to serve the present and anticipated future needs of the development.
9. Makes adequate provision for necessary educational facilities to serve the development.
10. Designates a minimum of five percent (5%) of the acreage of the Master Planned District as common open space for recreational purposes. All areas set aside as open space must meet the following criteria:
    a. No area shall have a minimum dimension of less than 30 feet.
    b. Land used for roadways, driveways, parking areas, and private yards shall not be calculated as open space.
    c. Fences, walls, or buildings shall not divide open space.
    d. Land included as open space shall not be land that otherwise cannot be developed due to physical limitations.
    e. The Open Space shall be owned in one of the following ways:
        1. The property owners within the development may have an undivided interest in the open space; or
        2. The property owners may establish a homeowner's association organized as a non-profit corporation or trust carrying covenants that run with the land and that are legally recorded with the Sandoval County Clerk's Office.
        3. The Common Open Space may be a owned by a public entity or non-profit corporation granted an exemption from Federal Income Tax as described in Section 501 (c) of the United States Internal Revenue Code. Any proposal to transfer the Common Space to such an entity must be approved by the County Board.

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Sec. 12. - Urban Districts.

Sec. 12(1). - Urban Residential Districts.

A. *Purpose.* The residential districts are designed to provide high quality neighborhood areas to meet the varying lifestyles of the city's residents. The zoning classifications range from low to high density and include rural-agricultural, single-family, and multifamily uses. The variety of residential districts is intended to respond to the plans and policies of the County's general plan.

B. *Districts Identified.* The residential districts are grouped into three categories:

1. Single-Family Districts comprised of the R1-35, R1-15, R1-8, R1-6, and R1-5 categories;
2. Multifamily Districts comprised of the R-2, R-3, and R-4 categories;
3. Mobile Home Park District comprised of the R-5 category.

Sec. 12(1.1). - Urban Single-Family Districts.

A. *Purpose of Urban Single-Family Residential Districts.*

1. The purpose of the R1-35 and R1-15 Districts is to provide low-density, estate-type residential uses with large animal (horse) privileges. The districts serve as a transition between agricultural uses and urban development.
2. The purpose of the R1-8, R1-6, and R1-5 Districts is to provide a variety of single- family detached residential dwelling types at an urban density. The districts are expected to serve as the predominant residential land use in the county.

B. *Permitted Uses.*

1. One single-family detached dwelling per lot. A mobile home, recreational vehicle or similar vehicle shall not be occupied for dwelling purposes unless located in a recreational vehicle park, mobile home park or mobile home subdivision as provided in this Section.
2. Accessory uses and buildings incidental to the principal use such as pools, garages, sheds and provided any accessory building is not used for sleeping or living quarters.
3. Home occupations.
4. Public parks and public recreation areas.
5. Schools, public or private.
6. Community swimming pools and similar recreational facilities of a non-profit nature when associated with a residential project.
7. Agricultural uses for the purposes of cultivation only. No retail business shall be conducted on the premises except in the R1-35 and R1-15 Districts and in accordance with the provisions of this section.
8. A temporary construction office, shed and/or storage yard in conjunction with on-site construction subject to the following:
   a. Such use shall be kept so as not to adversely affect other properties.
   b. A site plan for a temporary construction office, shed and/or storage yard shall be submitted for review and approval by the County Development Department. The County Development Department shall provide a checklist of items to be included on the plan that includes, but is not limited to, vehicle access, parking, exterior lighting, emergency access and signage.

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c. The temporary construction office, shed and/or storage yard shall be removed when on-site construction is completed.

9. A temporary residential sales office shall be allowed for the on-site sale of homes, subject to the following:

   a. A temporary sales office shall not be permitted until the final plat has been recorded and the building permits for the model home complex have been issued.

   b. The temporary sales office shall be allowed for a maximum time of 6 months or until the model home complex is completed, whichever occurs first.

   c. The temporary sales office shall be located so as not to adversely affect other properties.

   d. A site plan for the temporary sales office shall be submitted for review and approval by the County Development Department. The County Development Department shall provide a checklist of items to be included on the plan that includes, but is not limited to, vehicle access, parking, exterior lighting, emergency access, signage and landscaping.

10. A subdivision model home complex for the on-site sale of homes subject to the following:

   a. The subdivision plat shall be recorded, infrastructure construction permits issued and house plans approved before building permits for the model home complex are issued.

   b. A model home complex plan shall be submitted for review and approval by the County Development Department prior to the issuance of building permits for the models. The County Development Department shall provide a checklist of items to be included on the plan that includes, but is not limited to vehicle access, parking, exterior lighting, trap fences, emergency access, signage and landscaping.

   c. A certificate of completion shall not be issued for a model home until the infrastructure improvements required to service the model home complex are accepted by the County.

   d. All model homes shall be for sale in the subdivision where the complex is located.

   e. All temporary improvements provided for the model home complex shall be removed or converted before a model home is occupied as a residence. This includes, but is not limited to temporary parking, garage sales offices, lighting, trap fences, lot walls and signage.

11. A subdivision model home complex may be used for off-site sales subject to the requirements of section 12(11).B.10 and the following:

   a. The off-site sales shall be for lots located within the County.

   b. A model home complex shall not be used only for the purpose of off-site home sales. Construction shall be ongoing in the subdivision within which the complex is located while models are used for off-site sales.

   c. A model home complex shall only be used to market off-site homes until ninety-seven (97) percent of the lots in the subdivision that the complex is located in are sold.

12. In R1-35 Districts, the keeping of livestock is permitted at a ratio of one animal per twenty-one thousand seven hundred eighty (21,780) square feet of lot area. Such livestock shall not be corralled or stabled within 60 feet of any lot line. Corrals and stables shall be located in the rear yard.

13. A family Child Care Home Facility with a capacity of six or less children at one time.

14. A Community Residential Care Facility with a capacity of up to ten residents and staff, providing all State of New Mexico regulations are met.

C. *Uses permitted subject to a conditional use permit.*

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1. Public utility and municipal buildings and facilities; however, storage, repair and public works yards and similar uses are prohibited.
2. Churches, convents, and parish houses in the R1-35 and R1-15 Districts only.
3. One guesthouse, accessory to the main dwelling, in which no provision is made for cooking. A guesthouse may not be leased, rented, or in any way used for compensation.
4. Cemeteries, mausoleums, crematoriums.
5. Mobile home subdivisions subject to Section 12(11).D. herein.
6. Bed and breakfast inns only in R1-35 Zoning Districts and subject to the following:
   a. The bed and breakfast inn shall be owner-occupied. The guest rooms shall be part of the primary residence.
   b. No more than four rooms with a maximum of three guests per room shall be allowed for the bed and breakfast inn.
   c. The bed and breakfast inn shall not have more than one commercial delivery or outside service in a 24-hour period.
   d. The conditional use permit is non-transferable and shall be subject to review and may be revoked if the use authorized therein has been exercised in violation of this section or the approval conditions.
   e. Meals shall be served only to overnight guests and residents.
   f. No alteration to the exterior or interior of the residential dwelling, accessory building or yard that alters the residential character of the premises shall be permissible.
   g. Off-street parking shall be at a rate of one space per room.
   h. Except as provided by city code and/or other regulations, no storage of commercial vehicles shall be allowed.
   i. The bed and breakfast inn shall not be used for the hosting of receptions, private parties or similar events.
   j. A fire escape plan shall be developed and graphically displayed in each guest room. Such plan shall be filed with and approved by the County Fire Department.
   k. The bed and breakfast inn shall comply with all other provisions of the zone in which it is located and with all other applicable ordinances, codes or regulations.

[7.] Day care or nursery school in conjunction with a church provided such activities are on the same lot and share joint use of church facilities. Independent freestanding or wall identification signs for the day care or nursery school are not permitted.

[8.] A Family Child Care Home Facility when more than seven children and no more than 12 children will be on the premises at the same time.

D. *Mobile Home Subdivisions.* Mobile home subdivisions shall be permitted in any Single-Family Residential District upon approval of a conditional use permit and in accordance with the following standards and requirements:

1. All lots and units place thereon shall comply with the yard, height, and are requirements of the applicable zoning district as outlined in Section 12(11).G. herein.
2. All dwelling units shall be attached to a foundation, which meets county building code requirements. The foundation shall be skirted or painted to match the mobile home.
3. All dwellings shall have a two-car garage or carport connected to a public street or access easement by at least a 20 foot long driveway.

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4. All mobile home subdivisions shall meet the development standards for single-family residential subdivisions in Section 12(11).H.

5. A landscape package for each unit should be provided consisting of a minimum of two 15 gallon trees to be planted along the street frontage.

E. *Yard, Height, Area, and Density Requirements.* The following table outlines the minimum development standards within each district. Yard, height, and area requirements in excess of these minimum standards may be required in accordance with design standards outlined in Section 12(11).H.

District	R1-35	R1-15	R1-8	R1-6	R1-5
Minimum net site area	35,500 sf	15,000 sf	8,000 sf	6,000 sf	6,000 sf
Density in du/acre	1.0	2.4	4.0	5.0	6.0
Minimum lot width	140'	115'	75'	60'	60'
Minimum lot depth	175'	120'	94'	94'*	94'*
Maximum height	30'	30'	30'	30'	30'
Maximum bldg. coverage	15%	20%	40%	40%	50%
Minimum setbacks: front yard	40'	35'	25'	20'	20'**
Total both side yards	40'	30'	15'	15'	10'
Minimum side yard	20'	15'	5'	5'	0'***
Rear yard	35'	30'	20'	15'	15'
Street side	25'	20'	10'	10'	10'

;sz=9.5q;*Adjacent to an arterial street or freeway, all reverse frontage lots shall have a depth of one hundred five (105) feet.

;sz=9.5q;**May be reduced to 15 feet in accordance with subsection 202.H.3.d.

;sz=9.5q;***Zero lot line development is permitted. Minimum separation between buildings shall be ten feet.

F. *Development Standards for Single-Residential District.* The following standards shall apply to single-family residential subdivisions and certain types of residential units built within the city. The intent of

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these standards is to establish a minimum level of environmental quality within Sandoval County as well as a consistent method of evaluating new projects. The standards set objectives for the developer/designer to meet and are not intended to restrict or impede creativity and imagination. In the event of conflict between the provisions of this section and subsection

G. *Yard, Height, Area, and Density Requirements.* The provisions of this section shall prevail.

1. *Standards for all single-family residential subdivisions.*

a. Each project shall have a unique entry feature to provide individual identity to the development. Entry features may include a combination of some of the following elements: Entrances paving (such as bomanite), fountains, distinctive landscaping treatment, planters, special wall treatment, gates, etc.

b. A minimum of six foot and maximum eight (8) foot wall shall be required along the rear of reverse frontage single-family lots along collector or arterial streets. Such walls shall be constructed of slump block, brick, or masonry with a stucco or mortar wash finish and decoratively designed with details such as inlaid tile or brick work, cap tiles, wall insets or offsets, pilaster treatments, etc. Long, straight, unbroken walls are discouraged. Landscaping is required to be installed in accordance with city standards within the collector or arterial right-of-way.

c. Landscaping shall be required along the rear of reverse frontage single-family lots along collector or arterial streets in accordance with the standards specified below.

(1) Trees with a minimum size of 15 gallons shall be planted at the rate of one tree per 20 feet of linear street frontage. At least twenty-five (25) percent of the trees shall be 24-inch box size.

(2) Shrubbery with a minimum size of five gallons shall be planted in appropriate numbers to complement the placement of trees, but in no case shall be less than two shrubs per 20 feet of linear street frontage.

(3) Clustering of trees and shrubbery shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape. Contouring of the ground and placement of mounds and earth berms along streets shall be required.

(4) A minimum of twenty-five (25) percent of all frontage landscaped areas shall be covered with vegetative or organic ground cover consisting of grass or other living plant materials characterized by horizontal growth which generally does not exceed 18 inches in height.

(5) Vegetative ground cover shall be so located to accentuate landmarks or focal points on a site and to create a "lush" appearance to the landscaped area from public streets and areas.

(6) Inorganic ground cover, consisting of decomposed granite, crushed rock, gravel, river run and/or boulders, shall be of sufficient variety in terms of color, texture, and materials to provide a pleasant and diverse appearance to the streetscape. Mounding and contouring of landscaped areas is required.

2. *Design standards for single-family residential units located on lots in the R1-5, R1-6, or R1-8 Districts.* The following design features are suggested for residential units built in conventional residential tract subdivisions with lot sizes ranging from five thousand (5,000) to twelve thousand (12,000) square feet. Subdivisions comprised of custom home sites where each unit is individual in its design are exempt from these standards.

a. A minimum of three elevations for each house plan is recommended. The elevations should provide variety in architectural design, incorporating features such as different rooflines, window treatment, architectural details, and building material (unless the project is oriented toward a particular architectural theme).

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b. The same house plans with the same or similar elevations should not be placed on adjacent lots or directly across the street from one another.

c. Each unit shall have a two car garage.

d. Entryway features are recommended to define the main entrance of the unit and break-up the facade, such as recessed or covered entryways, decorative screen walls and planters, arches, pillars, and other architectural features.

e. Masonry perimeter lot fences, minimum six feet in height, shall be required for durability and longevity.

f. Below are the minimum standards required for solar water heating:

1. Any homeowner's association's covenants, conditions and restrictions, implementing bylaws, or guidelines may specify more restrictive requirements.

2. Solar water heating units which are an integrated part of the roof design are preferred. If the solar water heating units are not flat, as preferred, they shall be installed as to not to rise more than eight (8) inches from the roof surface. They must appear to be part of the roof structure itself and be the same color as the roof or glass enclosed. Collectors requiring a high angle of installation shall be fully screened from view with a material that blends with existing architecture and color.

3. No preheat, tempering, or holding water tanks shall be located on the roof or side the structure. Heating/air conditioning units shall be ground-mounted on a concrete pad.

4. All wiring and piping for solar water heaters and air conditioning units shall be installed as to not be visible from neighboring properties or the street.

g. The use of stucco, masonry, or lap siding are recommended as exterior building wall finishes for the front of each unit. Hardboard siding may be used on the sides and rear of the unit, on the gable ends of the roof, and on the front of the unit for architectural accent.

h. A landscaping package for each unit should be provided by the builder/developer consisting of a minimum of two 15 gallon trees per unit to be planted along the street frontage.

i. Decorative window treatments on the front of the unit (such as bay windows, trim work, recesses, pop outs) are encouraged.

[3.] *Additional design standards for single-family residential units located on lots in the R1-5 District.* (compact or zero lot line units). In addition to the standards in Section 12(11)H.3. above, the following standards shall apply to compact or zero lot line units.

a. Masonry perimeter lot fences minimum six feet in height, shall be required. Those sections of fences and walls facing a public street shall be finished to complement the main building materials.

b. Zero lot line units should be designed to present a "wide" building facade to the public streetscape to minimize the visual impact of the garage on the architecture of the unit. Units, which are so narrow that the garage becomes the visual focal point of the building, shall be strongly discouraged. The following architectural techniques may be used to accomplish this design goal:

1. Placement of living areas of the unit at or near the front setback line of the lot.

2. Garages which are recessed behind the living areas.

3. Variation in orientation of garages (side entry, angled entry, etc.).

4. Decorative screen walls and planter areas.

5. Recessed garage doors.

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6. Decorative garage doors.
7. Special entryway treatments to the unit.

c. In addition, the following features may also be used to assist in improving the streetscape appearance and break-up the garage door facade.

1. Curvilinear streets.
2. Variation in unit setbacks.
3. Extensive landscaping in open areas along streets.

d. Recreation facilities and common open space areas are suggested in each zero lot line project.

e. A 20-foot driveway between the sidewalk and face of the garage shall be required on all units where garage entrances are perpendicular to the street. Front setbacks of the units from the streets may be variable where side entry garages are used or where garages are recessed behind the living areas of the units.

Sec. 12(1.2). - Urban Multifamily Districts.

A. *Purpose of Multifamily Districts.*

1. The purpose of the R-2 District is to promote the ownership of individual units at a medium level of density, including single-family detached units, condominiums, duplexes, and townhouses. The density range will allow for less individual unit maintenance, cost, and size compared to the Single-Family Districts.
2. The purpose of the R-3 and R-4 Districts is to provide for medium to high-density lifestyles encompassing condominiums and rental units. These districts are appropriate in high activity areas of the city, adjacent to commercial areas. Care shall be exercised in the design of these multifamily uses to minimize their impact on adjacent single-family areas.

B. *General Requirements.*

1. All new buildings and uses of land or substantial additions to or remodeling of existing buildings shall be subject to site plan review in accordance with Section 15.G.1.
2. Refer to Section 13 for off-street parking requirements.

C. *Permitted Uses.*

1. All uses permitted in Section 12(11).B.
2. Multifamily dwellings including duplexes, townhouses, condominiums, apartments or other cluster housing types.

D. *Uses Permitted Subject to a Conditional Use Permit.*

1. All uses permitted as conditional uses under Section 12(11).C.
2. Boarding and roominghouses.
3. Private clubs and lodges of a non-profit nature.
4. Day care centers and nursery schools.
5. Nursing Homes.
6. Group Recovery Home.

E. *Yard, Height, Area, and Density Requirements.* The following table outlines the minimum development standards within each district. Yard, height and area requirements in excess of these

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minimum standards may be required in accordance with design standards outlined in Section 12(12).F.

MULTIFAMILY RESIDENTIAL DISTRICTS

District	R-2	R-3	R-4
Minimum net site area	2 acres	6000 sf	6000 sf
Minimum lot area/unit	4500 sf	3000 sf	1980 sf
Density in du/net acre	9.7	14.5	22.0
Minimum lot width	35'	60'	60'
Minimum lot depth	90'	94'	94'
Maximum height	30'	30'	30'
Maximum bldg. coverage	40%	45%	45%
Minimum setbacks:			
Front yard	20'*	25'	25'
Side yard	**	**	**
Rear yard	15'	15'	15'
Street side	20'***	20'	20'

;sz=9.5q;*May be reduced to ten feet in the case of a single-family attached or detached units where a 20 foot long driveway is provided (see subsection 202.H.3.d).

;sz=9.5q;**Zero (0) feet for lots with common walls; ten feet for lots with no common walls.

;sz=9.5q;***May be reduced to ten feet in the case of single-family attached or detached units.

F. *Development Standards for Multifamily Residential Districts.*

1. *Applicability.*

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a. In the event a lot within the R-2, R-3, or R-4 Districts is developed into single-family attached or detached units, the development standards of Sections 12(11).G. and H. shall apply.

b. Except as noted in subsection F.1.a. above, the development standards cited herein shall apply in all Multifamily Districts.

2. *Purpose.* The intent of these standards is to promote sound design principles and high quality residential environments for residents of multifamily projects. The standards promote privacy for residents and strengthen property values while reducing the impact of high-density development on adjacent land uses.

3. *Open space.*

a. "Common open space" is defined as that portion of a parcel not covered by buildings (including patios, parking areas, or driveways). Such areas shall be devoted to the purpose of outdoor living space for the residents and may include lawn areas, walkways, sitting areas, courtyards, and outdoor recreation facilities. Buildings, structures, or other impervious surfaces devoted to meaningful recreation or open space uses shall be considered as open space.

b. "Floor area" includes all areas for residential use measured from the outside faces of exterior walls including balconies, entryways, stairwells, offices, lobbies, patios, and any other space used for habitation.

c. "Private outdoor space" is that portion of the unit or lot devoted to outdoor recreational use of the individual resident(s) of the unit or lot.

d. The amount of common open space provided in a project shall equal or exceed the multiple of one and one-half (1.5) times the first floor area of all buildings up to a maximum of forty-five (45) percent of the net lot area.

e. A minimum of 30 percent of the required common open space shall be provided along the public street frontage in the form of landscaping setback. Such areas shall not be required to exceed fifty (50) feet in width nor shall be less than twenty-five (25) feet in width.

f. No more than fifty (50) percent of the required front yard landscaped area or any other street frontage area may be used for stormwater retention purposes. Side slopes of basins should not exceed a 6:1 slope. The maximum side slope shall be a 4:1 ration.

g. Required yards and landscaped setback areas fronting on a public street shall be entirely landscaped except for necessary driveways and walkways. Parking is not permitted within the required setback area.

h. Common open space shall be the central focus of the projects. Open space should link recreation facilities with the dwellings and be uninterrupted by vehicular circulation or parking areas.

i. Private outdoor space shall be provided in the form of patios or balconies with a minimum size of 60 square feet per unit and minimum dimension of six feet.

4. *Building separation.*

a. Where a lot is occupied by a group of two or more related buildings, the minimum dimension of a yard upon which the principle entrance or exit of a multifamily building shall face, shall be according to the following schedule:

Building Height	Minimum Yard Dimension
1 story	20 feet

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2 story	30 feet

b. The minimum separation between buildings on a multifamily site shall be 15 feet.

5. *Relationship of project to surrounding land uses.* The relationship between a multifamily project and adjacent uses, building scale, density and building heights. Particular sensitivity shall be displayed to the relationship between a multifamily project and adjacent residential uses of lesser density to minimize the impact on those less-dense areas.

   a. Multifamily buildings shall be limited to a height of one story within fifty (50) feet of a single-family residential area or zoning district. Multifamily buildings two stories in height or greater shall not be placed within seventy-five (75) feet of a single-family residential area or zoning district.

   b. Individual design situations may dictate additional conditions or considerations to minimize the impact of a multifamily development on adjacent residential uses through the imposition of one or more of the following design considerations:

      1. Use of one-story buildings;
      2. Additional landscaping to serve as buffer area;
      3. Wider setbacks from property line;
      4. Modifying the orientation of buildings;
      5. Modifying the orientation of windows and balconies;
      6. Providing screen walls.

   c. Common recreation facilities in a project shall be located to minimize the intrusion of noise into adjacent residential area.

   d. Pedestrian and visual linkages shall be made between a project and off-site amenities.

   e. The project shall be designed to minimize negative traffic impacts on the surrounding uses.

6. *Landscaping.*

   a. A minimum ten foot wide landscaped area shall be required along all interior property lines separating individual development sites. Trees with a minimum size of 15 gallons shall be planted every 15 feet on center within the area. A six foot high masonry wall shall be required along the property line. Any walls facing public streets shall be finished with stucco or other materials to match the main buildings on the site.

   b. Along public street frontages, minimum 15 gallon sized trees shall be planted at a ratio of one tree per 20 feet of frontage. A minimum of twenty-five (25) percent of the required trees shall be 24 inch box size.

   c. Within common open space areas, minimum 15 gallon sized trees shall be planted at a ratio of one tree per dwelling unit.

   d. Open space areas along public street frontages shall receive special landscaping treatment to provide a lush setting for both the residents of the project and the general public. The following standards shall apply to landscaping of public street frontages:

      1. Special entry features shall be provided at major entrances into a project to provide a sense of identification and uniqueness.

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2. Walls, planters, and earth berms shall be provided in the front yard to add variety to the landscape and to increase privacy for the residents.

(3) No more than fifty (50) percent of the required front yard landscaped area may be used for stormwater retention purposes.

e. Foundation plantings should be utilized to complement building elevations, provide shade, and increase privacy. A minimum of fifty (50) percent of the building frontage facing public streets shall have foundation plantings.

f. Landscaped islands within parking areas shall be installed at least every 12 consecutive parking spaces. Such space shall be a minimum of five feet wide and contain at least one 15 gallon sized tree.

7. *Parking.*

a. All parking lots shall be screened from public streets by masonry walls or earth berms or combination thereof to a height of at least three feet above the grade of the parking lot or adjacent street, whichever is higher in elevation. Such walls shall be designed and colored to match the main buildings on the site.

b. One covered parking space per unit shall be provided.

8. *Building design.* Building design is often a matter of individual opinion and difficult to prescribe. The following elements of design shall be considered and encouraged in the architecture of multifamily buildings:

a. The residential scale and character of a project shall be emphasized. The mass of the building can be reduced by varying setbacks and building heights or by angular orientation of buildings.

b. The use of balconies, overhangs, covered patios, and trellises can provide relief and contrast to the building and assist in breaking up large wall surfaces.

c. Buildings shall be designed in concert with each other by carrying certain details and design elements throughout the project, but at the same time avoiding monotony.

d. Rooflines shall be varied providing different heights or varying roof orientations. Parapet walls should be interrupted by pitched roofs to provide variety to the roof and building line.

e. Pitched roofs shall be composed of mission tile, concrete tile, wood shake, or similar grade material.

f. The architectural detailing and treatment of windows and doorways shall be strongly considered through the use of clerestory windows, arched shapes, bay windows, recessed windows, raised borders, awnings, shutters, and trellis.

g. The individuality and privacy of units shall be emphasized throughout the use of private or semi-private entryways. Cat walks or long corridors lined with entrances to units shall be discouraged.

h. Entryways and stairwells shall be an integral part of the building design. Consideration should be given to partially screening stairwells or using unique architectural treatments so that they blend in with the overall building elevation.

i. Patio walls and fences shall be an integral part of building design and shall match the main building materials.

j. Mechanical equipment shall be screened from public view and be so located to be perceived as an integral part of the buildings.

k. Exterior perimeter walls of a project facing public streets shall be constructed of a slump block, brick, or masonry with a stucco finish to match the main building materials.

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Sec. 12(1.3). - Urban Mobile Home Park Districts.

A. *Purpose.* The purpose of the R-5 District is to provide an alternative living style and dwelling type to conventional single-family and multifamily housing. Standards contained herein are designed to afford adequate separation of mobile home units, screening, and open space in order to enhance the park environment.

B. *Permitted Uses.*

1. One mobile home on each space, including carports, ramadas, patios, storage rooms and similar accessory structures.
2. Recreational vehicles provided no more than 15 percent of the spaces in the park are used by RVs.
3. Accessory uses common to mobile home parks including community recreation building, parking areas, laundry facilities manager's office and living quarters, boat and trailer storage area and other similar accessory uses for the exclusive benefit of park residents.
4. Temporary construction offices, sheds, storage yards, and residential sales offices while construction is ongoing within the project. Such uses shall be kept in a neat and orderly condition and be located so as not to adversely affect residents in the project.
5. Home occupations.

C. *General Requirements.*

1. All new mobile home parks or expansions of existing mobile home parks shall be subject to site plan review in accordance with Section 15.G.1.
2. Refer to Section 13 for off-street parking requirements.

D. *Development Standards.*

1. The minimum size of a mobile home park shall be ten acres.
2. The maximum number of mobile home spaces or units per acre shall be seven.
3. The minimum width of mobile home rental spaces shall be fifty (50) feet with a minimum length of seventy (70) feet.
4. The minimum width of private driveways or accessways within the park shall be 24 feet. Each unit shall have access to a private driveway or accessway connected to a public street.
5. The minimum space between mobile homes shall be 20 feet. This dimension may be reduced to ten feet between awnings or canopies.
6. No mobile home shall be closer than eight (8) feet to a private driveway.
7. A minimum of five percent of the site shall be devoted to usable common open space for all residents, excluding streets and private driveways, parking and storage areas, or required setbacks at the exterior boundaries of the site.
8. All areas not covered by structures or paving shall be landscaped.
9. The maximum height of any building or mobile home shall be 30 feet.
10. Each mobile home shall be skirted to screen wheels and undercarriage.
11. All electric power lines, telephone lines, cable TV lines and similar utilities shall be placed underground.
12. No mobile home shall be located closer than 15 feet to the perimeter of the park. Where the perimeter of the park adjoins a public street, the setback shall be twenty-five (25) feet. Within this setback area, trees with a minimum size of 15 gallons shall be planted every 20 feet on center.

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13. A minimum six foot and maximum eight (8) foot wall shall be constructed around the perimeter of the park. Where said wall fronts onto a public street, the wall shall be constructed of slump block, brick or masonry with a stucco finish.

14. Any part of the mobile home park fronting on a public street shall meet the screening and landscaping requirements for single-family residential subdivisions contained in subsection 12(11).H.

15. A storage yard for boats, trailers, and RVs shall be required. The minimum size of such area shall be 60 square feet per mobile home space.

Sec. 12(2). - Urban Commercial Districts.

A. *Purpose and Intent.* Commercial districts provide activity centers with shopping and services, employment for local residents and additional revenue to strengthen the city's economic base. Commercial zoning standards are intended to ensure convenience, safety, positive community image, variety in retail uses, commerce and office development that enhances the citizens' quality of life. Zoning classifications include classifications for (i) offices, (ii) neighborhood, community and regional businesses and (iii) unique commercial uses found in the city's traditional commercial area. Use intensities and site development criteria are intended to mitigate impact on, as well as maintain compatibility with adjacent residential areas.

B. *Establishment of Commercial Districts.* The following commercial districts are established:

1. *Commercial Office District (C-O).* This district is intended to provide an environment desirable for and conducive to development of office and related uses. In addition, certain other kinds of uses are permitted under conditions and standards, which assure compatibility with a general concentration of office uses, as well as with the residential districts, which often adjoin the C-O District. This district will generally serve to provide a transition from more intensive to less intensive uses and will most frequently occur between commercial and residential districts.

2. *Neighborhood Commercial District (C-1).* This district is intended to accommodate retail and service establishments satisfying the everyday needs of consumers residing in adjacent neighborhoods. The C-1 Commercial District provides for neighborhood commercial centers having a supermarket as a principal tenant and with a trade area limited generally to adjacent neighborhoods. This district is intended to be the primary type of neighborhood commercial development. It is further intended that C-1 Districts be restricted to the intersection of arterial streets. No one user shall have a building in excess of one hundred thousand (100,000) gross square feet.

3. *Community Commercial District (C-2).* This district is intended to accommodate development of commercial complexes providing goods and services to a community-wide trade area. It is further intended that such commercial centers shall be planned, developed and managed as integrated complexes with individual users with a building square footage in the range of one hundred thousand (100,000) to two hundred thousand (200,000) gross square feet.

4. *Major Commercial District (C-3).* This district is intended to accommodate development of large-scale planned commercial complexes providing goods and services to a community-wide and regional trade area. It is further intended that such commercial centers shall be planned, developed and managed as integrated complexes with some individual users with a building square footage in excess of two hundred thousand (200,000) gross square feet.

C. *Land Use Matrix.* The following land use matrix shows the uses, which are permitted outright (P), permitted conditionally (C), permitted as accessory uses (A) or prohibited (-) in specific commercial zoning districts in Sandoval County. The land use matrix is intended to serve as a guide for the convenience of the user of this zoning ordinance. Where the text of this zoning ordinance differs from the land use matrix, the text shall prevail.

Land Use Matrix

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LAND USE	C-O	C-1	C-2	C-3
AUTO-ORIENTED USES				
Auto supply store, indoor	-	C	C	C
Auto body and engine repair, upholstery, painting facilities, and similar uses	-	-	-	C
Automobile, boat, recreational vehicle, or motorcycle, sales and rental	-	-	C	P
Automobile leasing facility	-	C	C	P
Automobile service and diagnostic facility	-	-	C	C
Car wash, mechanical, self service	-	-	C	C
Emissions testing facility	-	-	-	P
Gas service station with retail gasoline sales, convenience store, and car wash	-	-	C	C
Tire sales, repair and mounting	-	-	C	C
Truck stop, including wash	-	-	-	C
EATING & DRINKING ESTABLISHMENTS				
Restaurants and similar uses	C	P	P	P
Drive-thru restaurants	-	C	P	P
Tavern, bar, lounge or establishment that sells beer or intoxicating liquor for consumption on premise, excluding restaurants and adult uses	-	-	C	C
ENTERTAINMENT, COMMERCIAL RECREATION & ASSEMBLY USES				
Commercial sporting complexes, concert facilities, stadiums, and similar outdoor recreational facilities	-	-	-	C
Convention centers and exhibition halls	-	-	P	P

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Dancing, theatrical or music studio	-	C	P	P
Health and exercise center	C	C	P	P
Indoor commercial recreation/entertainment uses such as movie theaters, bowling alleys, game rooms, video arcades, ice and roller skating rinks, shooting ranges, pool and dance halls, bingo halls, and similar uses, excluding adult uses and taverns bars and lounges	-	-	P	P
Outdoor commercial recreational/entertainment uses such as amusement parks, fairgrounds, golf courses, golf driving ranges, commercial racetrack, rodeo grounds, shooting range, swimming and tennis clubs, and similar uses	-	-	-	C
Reception centers, recreation and social/private clubs	-	-	C	P
Resorts	-	-	P	P
INSTITUTIONAL USES				
Vocational school	-	-	P	P
Business or technical school	P	C	P	P
College or university	-	-	P	P
Churches, synagogues, temples, and similar places of worship	P	P	P	P
Cultural institutions	P	C	P	P
Day care centers or Pre-school centers	C	C	C	C
Libraries and museum	P	P	P	P
Assisted living facility, nursing or convalescent home, long term care facility & hospices, and group care facility	C	-	-	-
Post office	P	P	P	P
Public service and non-profit community uses	C	C	C	C

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Public utility buildings, structures, uses, facilities and equipment	C	C	C	C
Schools and educational institutions (public and private), excluding	P	C	P	P
colleges, universities, and vocational schools				
Substance abuse detoxification and treatment centers, halfway house	-	-	-	C
Zoo (private, public)	-	-	-	C
OFFICE/MEDICAL USES				
Ambulance service facility	-	-	C	C
Emergency medical care facility	P	C	P	P
Hospitals	-	-	P	P
Medical, dental or health offices, clinics and laboratories, excluding plasma centers	P	C	P	P
Veterinary hospital, offices and clinics, excluding animal boarding	-	C	C	C
Professional, administrative or business offices, banks and financial institutions, excluding non-chartered financial services	P	P	P	P
PERSONAL SERVICES USES				
Appliance service and repair	-	C	P	P
Clothing alteration, custom dressmaking or tailor shop	-	P	P	P
Dry cleaning and laundry establishment	C	P	P	P
Employment Agencies	-	-	C	C
Laundromat, self-service	-	P	P	P
Nail salon, barbershop, and beauty salon	C	P	P	P
Personal service establishments such as tanning salon, massage therapy, palm readers,	-	-	C	C

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phrenologists, fortune tellers and astrologers, excluding adult uses				
Photographic developing and printing studio	-	P	P	P
Ticket and travel agency	P	P	P	P
RESIDENTIAL & LODGING USES				
One caretakers quarters	A	A	A	A
Dwelling units above the ground floor of a building	C	C	C	C
Hotel or motel	-	-	P	P
RETAIL USES				
Retail sales of new merchandise within enclosed buildings, excluding liquor stores	A	P	P	P
Equipment sales, rental and storage yard	-	-	-	C
Monument sales and engraving shop	-	-	-	P
Pawn shop	-	-	-	C
Plant nursery	-	-	C	P
Retail/wholesale sales of lumber, landscaping and building materials, excluding outdoor storage	-	-	C	P
Specialty stores and services, indoor, excluding liquor stores	-	P	P	P
Surplus store, thrift store	-	-	-	P
MISCELLANEOUS USES				
Accessory buildings, structures and uses customarily incidental to a permitted use	A	A	A	A
Automatic teller machine (ATM)	P	P	P	P
Bus terminals	-	-	C	C

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Cemetery, crematorium, mausoleum, funeral home and chapel, mortuaries and columbariums	-	-	C	C
Day labor hiring centers	-	-	-	C
Mini-storage warehouses	-	-	C	C
Moving truck, trailer and equipment rental	-	-	C	P
Office warehouses	-	-	C	P

;sz=9.5q;P = Permitted Use

;sz=9.5q;C = Conditional Use Permit required.

;sz=9.5q;A = Accessory Use

;sz=9.5q;- = Not Permitted

D. *General Regulations.*

1. All activities, except as otherwise permitted herein, shall be conducted entirely within enclosed buildings.
2. Outdoor storage of goods and materials shall be prohibited.
3. Warehousing or indoor storage of goods or material beyond that normally incidental to permitted uses shall be prohibited.
4. All new buildings and uses of land or substantial additions to or remodeling of existing buildings/uses shall be subject to site plan review in accordance with Section 106.
5. Office buildings uses as the primary use: Retail sales of new merchandise and restaurants shall be allowed provided that such uses shall not exceed twenty-five (25) percent of the gross square footage of the building.

E. *Conditional Use Development Standards.*

1. Automobile service and diagnostic facilities, auto supply stores, auto body and engine repair facilities, upholstery and painting facilities, tire sales repair and mounting facilities and similar uses may be allowed as conditional uses in certain commercial districts subject to the following provisions:
   a. Outdoor displays of merchandise sold on the premises, not exceeding 100 square feet, shall be allowed during normal business hours. However, no outdoor storage shall be permitted.
   b. The exterior design of all buildings shall meet the Sandoval County design requirements.
   c. Where the site or use abuts or adjoins any residentially zoned property there shall be a solid masonry wall at least six feet in height constructed according to the Sandoval County wall standards, with a minimum 20 foot landscaping buffer between the masonry wall and the property line abutting the residentially zoned property.

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2. Automobile leasing facilities may be allowed as conditional uses in certain commercial zones, provided that:

   a. No more than six vehicles shall be stored on site in association with an office location, which is part of a commercial center, or commercial complex that includes retail uses.

   b. Automobile storage shall be limited to paved areas and shall not occupy required parking spaces or access lanes.

3. Car washes, mechanical, and self service may be allowed as conditional uses in certain commercial zones provided that:

   a. The site for the car wash shall have a minimum width of one hundred fifty (150) feet and a minimum area of twenty-two thousand five hundred (22,500) square feet after dedication of all required public right-of-way.

   b. Where the site or use abuts or adjoins any residentially zoned property there shall be a solid masonry wall at least six feet in height, with a minimum ten foot landscaping buffer between the masonry wall and the property line abutting residentially zoned property.

   c. Lighting shall be directed toward the site and shall not cause undesirable glare to nearby residential properties.

   d. Design of structures and site shall be compatible with the type of development in or anticipated in the nearby areas and meet the design criteria of Sandoval County.

   e. All bays shall be oriented away from adjacent streets and residential areas. Appropriate screening may be used when approved by the Director of County Development.

4. Convenience stores/gas service stations may be permitted as conditional uses in certain commercial districts, provided that:

   a. Facilities for tire changing and repair, polishing, lubing, washing and minor repair and servicing of motor vehicles shall be entirely within an enclosed building. Body repair, engine rebuilding, bumping, painting, vehicle or trailer rental and general sales of auto parts shall be expressly prohibited.

   b. Paved areas shall be reduced to the smallest area commensurate with efficient operation and function of the site. All unpaved areas shall be maintained in turf or landscaping.

   c. The site has minimum frontage of one hundred fifty (150) feet on one arterial street.

   d. The design of all buildings shall meet Sandoval County design requirements and be compatible with the existing and anticipated surrounding development. In addition, the roofline and the architecture of the canopies shall be stylistically consistent with the other buildings on the site and shall not exceed one hundred fifty (150) lineal feet on any side.

   e. All canopies, accessory equipment and fuel pump mechanisms shall meet the principal building setback requirements of the applicable zone.

   f. Convenience stores/gas service stations proposed at the intersection of two arterial streets shall receive approval from the Zoning Commission prior to site plan submittal.

   g. Service and car wash bays shall not face residential properties or public streets unless entirely screened in a method acceptable to the Director of County Development.

5. Recreation facilities and social clubs and reception centers may be permitted as conditional uses in certain commercial districts, provided that:

   a. Any restaurant or bar operated in connection with a recreation and social club or a reception center shall be an integral part of a principal building, shall have no public entrance except from within the building and shall make no exterior display or advertising of any commercial activity, however incidental.

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b. Golf fairways, greens and tees, swimming pools, tennis courts and similar outdoor recreation facilities shall be located not less than twenty-five (25) feet from any property line.

6. Veterinary offices, hospitals and clinics (excluding animal boarding) may be permitted as conditional uses in certain commercial districts, provided that:

a. Clinic activities shall be restricted to the medical care and treatment of small animals during regular office hours. The confinement of such animals on the premises shall be limited to essential and occasional overnight care and shall be entirely within enclosed structures. The boarding and breeding of animals shall be prohibited.

b. Clinics shall be constructed to be completely contained as to prevent emission of any noise or odor.

c. Outdoor runs or exercise pens shall be prohibited unless approval from the Zoning Commission is obtained prior to site plan submittal. Additionally, no outdoor runs, pens or enclosures shall be located closer than 100 feet to any street, residential district or existing restaurant, hotel or motel.

7. Mini-storage warehouses may be permitted as a conditional use in certain commercial districts, provided that:

a. Doors of the storage areas shall not front or face onto any public street or residential use.

b. Only indoor storage shall be permitted and there shall be no sale or rental of goods, materials or other tangible or intangible property from the facility or any part thereof and there shall be no activities conducted on the premises whether related to the stored items or otherwise. The sale of insurance by the operator on goods stored therein or the sale therein or the sale by the operator of items used in connection with the storage of goods at the site shall not be prohibited.

c. No hazardous or flammable materials, as defined in the International Building Code, shall be stored in such facility.

d. Any structure may be exempt from side and rear yard setbacks, provided, that in all cases where the conditional use abuts any residential district on its side or rear lot lines, there shall be a side yard of not less than twenty-five (25) feet and a rear yard of not less than twenty-five (25) feet.

e. A wall with a minimum height of six feet and a landscaping screen, all as approved by the Director of County Development, shall be constructed on the side and/or rear property lines.

F. *Property Development Standards.*

1. *Area and density.* No standard is established.

2. *Coverage. F*ull coverage is allowable provided minimum loading space; parking, landscaping, and setbacks have been provided, unless otherwise approved by the Zoning Commission.

3. *Setbacks.*

a. *Front yard.* No front yard setbacks are required and the maximum setback permitted shall be ten feet which may be used for landscaping, pedestrian, circulation, entry court, outdoor dining, and similar uses related to a downtown pedestrian environment.

b. *Side yard.* No side yard setbacks shall be required, except as follows:

1. Where the side property line abuts residential zoned property, no setback shall be required for the ground floor portion of the structure or first 15 feet of structure height, whichever is less. Portions of the structure above the ground floor or 15 feet in height shall be set back a minimum of ten feet from the side property line.

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2. Where the side property line abuts dedicated alley which separates such side property line from abutting residential zoned property, the side yard shall have a minimum depth of ten feet, which shall be measured from the centerline of said alley and the forty-five-degree angle of the afore described plane may be measured at the ground level along the centerline of said alley.

c. *Rear yard.* No rear yard setbacks shall be required except as follows:

1. Where the rear property line abuts residential zoned property a minimum rear yard setback of 20 feet shall be maintained, except that no portion of any structure shall encroach through a plane projected from an angle of forty-five (45) degrees measured at the ground level along the rear property line.

2. Where the rear property line abuts a dedicated alley which separates such rear property line from abutting residential zoned property, the rear yard shall have a minimum depth of 20 feet which shall be measured from the centerline of said alley and the forty-five (45) degree angle of the afore described plane may be measured at the ground level along the centerline of said alley.

d. *Height.* Maximum height of all structures shall be three stories.

e. *Width.* For purposes of regulating the division of existing storefronts, no minimum storefront width shall apply. For the purpose of this section, a storefront is the primary (front facade) and secondary (rear/side facade) building entrance where access is taken from a public street, alley, public or private parking lot, or pedestrian mall/arcade or passage.

4. *Design standards.*

a. Exterior modifications requiring a building permit shall be subject to the site plan review process and the appeal procedures for site plan review set forth in Section 19.A.1.

b. Exterior modifications that do not require a building permit shall be reviewed and approved by city staff according to procedures established by the Director of County Development or designee.

5. *Joint-Use Parking.*

a. *Eligible development.* The following categories of development shall be eligible to use joint-use parking standards to meet parking requirements:

1. Nonresidential new construction on sites of less than twenty thousand (20,000) square feet in size;

2. New construction on sites greater than twenty thousand (20,000) square feet in size for retail commercial, restaurants, and movie theaters;

3. Existing buildings with uses or occupancies as specified in Section 12(2) of this ordinance, including additions to and rehabilitation of such buildings; and

4. Changes in uses or occupancies of existing buildings from uses or occupancies not listed in Section 12(2) to any uses or occupancies specified in Section 12(2).

b. *Ineligible development.* The following types of uses are not eligible to use joint-use parking standards:

1. New or existing residential uses; and

2. New construction of hotel or office uses on sites greater than twenty thousand (20,000) square feet in size.

c. *Alternative joint-use parking standards.* Section 13 the Sandoval County Zoning Ordinance shall determine circumstances in which parking shall be required. Once it has been established that parking is required, eligible projects within a Commercial Zoning District

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may choose to provide required parking by using the Alternative Joint-Use Parking Standards (Table 1) or to provide parking for the projects exclusive use under the standards established in Section 13

d. *Joint-use parking agreement.* All parking developed under joint-use parking standards shall be required to enter into an agreement with the city and recorded by the County Clerk, requiring the parking to be operated on a non-exclusive basis, to be open and available to the public for joint-use short-term public parking during normal business hours.

ALTERNATIVE JOINT-USE PARKING STANDARDS
MINIMUM PARKING RATIOS

Use	Minimum Parking Ratios
OFFICE	3.0 spaces/1,000 sf of gross usable area
Including:	
1. Banks, Savings and Loans, Other Financial Institutions.	
2. Medical or Dental Office.	
3. Professional or Unspecified Office.	
RETAIL COMMERCIAL	4.0 Spaces/1,000 sf of gross usable area
PUBLIC ASSEMBLY	
Including:	
1. Movie Theater	1.0 space/4 seats
2. Museum.	3.0 Spaces/1,000 of gross usable area
RESTAURANT	
Including:	
1. Restaurant, Coffee House, Juice Bar under 1,000 square feet of gross usable area.	3.0 spaces/1,000 of gross usable area

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2.	Restaurant over 1,000 square feet of gross usable area.	5.0 spaces/1,000 of gross usable area
3.	Outdoor dining areas associated with a restaurant.	0 spaces
RESIDENTIAL		Excluded from use of joint-use parking standards
NEW CONSTRUCTION OF OFFICE OR HOTEL USES ON LOTS GREATER THAN 20,000 SQUARE FEET		Excluded from use of joint-use parking standards
OTHER		Any category not listed above may be reviewed by the city on a case-by-case basis, taking into consideration the impact on peak-hour parking usage and the established parking standards contained in Section 13 of the Sandoval County Zoning Ordinance.

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Sec. 12(3). - Urban Industrial District.

A. *Purpose.* The industrial district provides for the industrial businesses of the community including research and development, warehousing, wholesaling, manufacturing, assembling, and limited retail and service uses. The district promotes the economic diversity of the county and provides for varying levels of intensity of industrial uses. Performance and design standards assure the county of high quality development. General Industrial (I-1) District: To accommodate warehousing, wholesaling, and manufacturing of an intensive nature involving open uses and/or storage, large-scale structures, etc.

B. *General Requirements.*

1. A minimum 20 foot landscaped area shall be provided along all arterial streets. Along all other public streets, a minimum ten foot landscaped area shall be provided. Parking and maneuvering areas shall not be permitted within the landscaped area.
2. All new buildings and uses of land or substantial additions to or remodeling of existing buildings shall be subject to site plan review in accordance with Section 15.G.1.
3. A mobile home, recreational vehicle, or similar vehicle shall be prohibited as a facility for any industrial use permitted in this ordinance except construction trailers and offices which are required while construction is on-going on the site.
4. Refer to Section 12(3).D. for yard, height, and area requirements.
5. Refer to Section 12(5) for development standards for industrial districts.
6. Refer to Section 13 for off-street parking requirements.

C. *General Industrial (I-1) District.*

1. *Permitted uses.*

a. Offices for professional, administrative, clerical, and sales services.

b. Research laboratories.

c. Medical and dental laboratories.

d. Medical offices and clinics.

e. Pharmacy.

f. Day care center and nursery school.

g. Comprehensive childcare facility.

h. Wholesaling.

i. Warehousing and distribution, excluding dead vehicle storage, trucking companies, and moving-storage companies.

j. Manufacturing or assembly of finished products or sub-assemblies so long as the primary use of the property is not the basic processing and compounding of raw materials or food products, except as otherwise provided herein.

k. Mini-storage and vehicle storage areas provided the sites are used for dead storage only, not for retail purposes.

l. Residence of a caretaker and family employed on the premises.

m. Retail commercial operations directly related to the primary industrial use provided it does not exceed ten percent of the gross floor area of the primary industrial use.

n. Farming, landscaping and agricultural supplies and equipment, wholesaling and storage.

o. Automobile body and fender shops, motor vehicle assembling.

p. Truck, bus, and heavy equipment garages, dispatching and weigh stations, including sales, rental and repair.

q. Equipment and material storage yards, including contractors' facilities.

r. Animal kennels and hospitals.

s. Except as noted under subsection B. herein, the manufacturing, processing, compounding of materials, the end product of which consists of materials for later processing or fabrication into a finished product.

t. Sexually oriented businesses, subject to Section 10 of this ordinance.

2. *Uses permitted subject to a conditional use permit.*

a. Restaurants, including drive-through facilities.

b. Financial institutions, including drive-through facilities.

c. Motels and hotels.

d. Service stations.

e. Athletic clubs, health clubs.

f. General retail sales, provided that any store shall not have a sales area greater than five thousand (5,000) square feet in size.

g. Motion picture studios.

h. Radio and television studios with receiving and transmitting towers.

i. Hospitals and other health care facilities.

j. Public utility buildings.

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k. A mobile home or recreational vehicle used as a residence for a caretaker or operator employed on the premises, including the family of the caretaker.

l. The manufacturing, storage, processing, distributing or use of chemicals, ice, gases, gasoline and petroleum products, paints, varnishes, and similar toxic, combustible, or explosive chemicals and substances.

m. The manufacturing, storage, processing or distributing of powder, flour, grains, glues, fertilizers, and feeds.

n. Tanneries, meat packing, smoking plants, slaughter houses.

o. The manufacturing of stone products such as brick, cinder block, concrete, pipe, and similar materials.

p. Cement and paving material mixing plant.

q. Extraction of sand, gravel, oil, gas and other mining operations.

r. Foundry, refining, smelting, or alloying.

s. Auto salvage and wrecking yards.

t. House movers, equipment, and storage yards.

u. Sewage disposal or treatment plant.

v. Cesspool or septic tank servicing and equipment yard.

w. Metals crushing, recycling, or collection facility.

x. Transmitting and receiving towers.

y. Any uses similar to, and not more detrimental than the uses permitted herein.

D. *Yard, Height, and Area Requirements.* The following table outlines the minimum development standards within each district. Yard, height, and area requirements in excess of these minimum standards may be required in accordance with design standards outlined in Section 12(4).

District	I-1
Maximum height	35'
Maximum bldg. coverage	-
Minimum setbacks:	
Front yard	20'
Side yard*	-
Rear yard*	-
Street side	15'

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* When adjacent to residential district or use, the following side and rear setbacks shall apply:

Building Height	Setback
1 Story (15')	25'
2 Story (35')	50'

Sec. 12(4). - Development Standards for Urban Commercial and Industrial Districts.

A. *Purpose.* The development standards in this Section are intended to provide minimum standards for the organization and layout of buildings, parking areas, landscaped areas and building design of urban commercial and industrial uses so as to promote the general health, welfare and safety of residents within the community. This is accomplished by encouraging the creation of safe and attractive appearances to the public eye and minimizing views of unattractive uses or activities. Likewise, sound design principles can enhance the compatibility of dissimilar uses and provide for transitional or buffer zones between such uses. The standards set forth herein are recognized as assisting in promoting privacy and logical development and strengthening property values.

B. *Applicability.*

1. The standards outlined in this section shall apply to the following buildings and uses in all urban commercial and industrial districts:

   a. All buildings and uses of land constructed or developed after the effective date of this ordinance.

   b. Existing properties when a change in the distinguishing characteristics or primary features of the use of a building or land occurs after the effective date of this ordinance. Such changes may include an increase in the size of the building or use or remodeling of an existing building. Criteria used to establish applicability may include, but is not limited to, an increase in parking requirements, a change in occupancy designation, a change in outside storage, or other similar factors.

2. Refer to Section 15.G.1. site plan review for information on submittal, review and processing of plans.

C. *Landscaping.*

1. *General requirements.*

   a. A minimum of ten percent of net land area of any site located in an urban commercial district shall be landscaped. A minimum of five percent of net land area of any site located in an industrial district shall be landscaped.

   b. Landscaping shall be provided along the street frontage between the street or sidewalk and any buildings, parking areas, loading or storage areas in accordance with the following standards:

      (1) The intersections of arterial or section line streets are a dominant feature of the urban landscape, serving as major focal points of activity in the community. Because of the importance of these intersections, additional landscaped setbacks and design features, beyond the required minimum standards, may be imposed on property at

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these intersections by the city at the time of re-zoning and/or site plan approval. Such additional features may involve:

(a) Wider setbacks;

(b) Unique building orientation and design;

(c) Special landscape features such as fountains, walls, and screening devices;

(d) Unique building architecture.

(2) Required yards fronting on a public street in the urban commercial districts shall be entirely landscaped excluding driveways and walkways. In the urban industrial districts the following landscaped setbacks shall apply to any building site:

(a) Along section-line arterial streets, required yards shall be entirely landscaped;

(b) Along all other streets, a ten foot landscaped yard shall be required.

(c) Parking and maneuvering areas shall not be permitted in the landscaped yards cited above excepting driveways and walkways.

(3) Where existing buildings or nearby parcels are built to the street property line, landscaping may be modified or located elsewhere on approval of the Department of County Development.

c. Any part of a site not used for buildings, parking, driveways, sidewalks, etc. shall be landscaped.

d. An automatic irrigation system shall be provided to all landscaped areas requiring water.

e. All landscaped areas adjacent to vehicular parking and access areas shall be protected by six-inch vertical concrete curbing in order to control stormwater flows and minimize damage by vehicular traffic.

f. All trees required by this part shall have a minimum trunk height of six feet, with a minimum one and one-half-inch caliper measured four feet above the ground. Multi-trunk trees may have smaller average caliper measurements. Palms shall have a minimum trunk height of five feet. This size of tree is generally referred to as "15 gallons" in the landscaping industry.

g. Twenty-four-inch box trees shall have a minimum trunk height of eight (8) feet with a minimum two-inch caliper measured four feet above the ground. Multi-trunk trees may have smaller average caliper measurements. Palms shall have a minimum trunk height of eight (8) feet.

h. Inorganic ground cover, specifically decomposed granite, shall be three-fourths (¾) inch or less in all arterial and collector right-of-way landscaping areas.

2. *Streetscape standards.* The following landscaping shall be required along all streets:

a. Trees with a minimum size as specified herein shall be planted at the rate of one tree per 20 feet of linear street frontage. A minimum of twenty-five (25) percent of the required trees shall be 24-inch box trees.

b. Shrubbery with a minimum size of five gallons shall be planted in appropriate numbers to complement the placement of trees, but in no case shall be less than two shrubs per 20 feet of linear street frontage.

c. Clustering of trees and shrubbery shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape. Contouring of the ground and placement of mounds and earth berms along streets shall be required.

3. *Transition/separation of uses.*

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a. Where urban industrial or commercial uses are located adjacent to or separated by an alley from any residential use or district, a ten foot wide landscape strip, planted with one tree every 20 linear feet, shall be required along the common property line. Trees must be non-deciduous and may not be clustered. A six foot masonry wall shall be required along the common property line. An eight (8) foot wall may be required for commercial or industrial projects warranting higher screening.

b. When urban commercial or industrial uses are adjacent to a residential use or district, the following building separation to property line shall apply:

Building Height	Setback
1 story (15')	25'
2 story (36')	50'

c. A six foot masonry wall shall be required along interior property lines separating individual development sites. Within the front yard setback, maximum wall height shall be three feet, six inches.

d. Walls which front on a public street shall be constructed of masonry with stucco, slump block or brick designed to match the main building on the site.

4. *Parking lot landscaping.*

a. A minimum of five percent of the parking lot area shall be landscaped, exclusive of front yard or perimeter landscaping and street trees. Such landscaping shall consist of parking islands located within the perimeter of the parking lot.

b. A minimum of one tree shall be provided for every eight (8) parking spaces, exclusive of perimeter landscaping and street trees. Trees must be planted within the parking lot.

c. Parking islands or landscaped areas shall be installed at least every 12 consecutive parking spaces; such islands shall be a minimum of five feet wide and contain a minimum of fifty (50) square feet in area.

d. All parking lots shall be separated from adjacent residential uses or districts by a ten foot landscaped strip planted with a minimum of one tree every 20 linear feet and a six foot masonry wall.

e. All parking lots shall be screened from public streets by walls or earth berms or combination thereof, constructed at least three feet above the grade of the parking lot or adjacent street, whichever is higher in elevation.

f. Variety to the alignment and style of the walls is required. Such walls shall be decoratively designed to match the facade of any buildings and shall be constructed of slump block, brick, or masonry with a mortar wash or stucco finish.

g. Any landscaped area used for vehicular overhang shall not be counted towards the required landscaping.

5. *Ground cover.* The county requires the use of low-water consumptive plants indigenous to this region. The following standards will apply:

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a. A minimum of twenty five (25) percent of all frontage landscaped areas shall be covered with vegetative or organic ground cover consisting of living plant materials characterized by horizontal growth which generally does not exceed 18 inches in height.

b. Vegetative ground cover shall be so located to accentuate landmarks or focal points on a site and to create a "lush" appearance to the landscaped area from public streets and areas.

c. Inorganic ground cover, consisting of decomposed granite, crushed rock, gravel, river run, and/or boulders, shall be of sufficient variety in terms of color, texture, and materials to provide a pleasant and diverse appearance to the streetscape. Mounding and contouring of landscaped areas is required.

6. *Retention basins.*

a. All private retention basins in commercial and industrial projects shall be landscaped. Such basins may not occupy more than fifty (50) percent of any landscaped area fronting on a public street: except, where exceptional design or shallow depths are proposed for the retention basin, the County Development Department may permit a greater use of the frontage landscaped area.

b. Retention basins shall be contoured and designed as an integral part of any frontage landscaping and shall not take on the appearance of a ditch. Maximum side slopes of basins shall be a four to one (4:1) ratio; side slopes of six to one (6:1) are preferred.

7. *Maintenance.*

a. All landscaping shall be reasonably maintained and any dead plant material shall be promptly replaced.

b. The maintenance of landscaping in the public right-of-way shall be the responsibility of the adjacent property owner, whether an individual, corporation, or homeowner's association.

8. *Foundation planting.* Foundation planting is required adjacent to buildings fronting on public streets. A minimum of thirty-three (33) percent of the building frontage shall be landscaped, with a minimum width planter area of three feet (vehicle overhang not permitted).

D. *Site Organization and Development.*

1. *Screening standards.*

a. All outdoor storage areas for materials, trash, equipment, vehicles or similar items shall be screened from view along all street frontages by a six foot wall constructed of slump block, brick, or masonry with a stucco or mortar wash finish designed to match the main building on the site.

b. The storage of materials, trash, equipment, vehicles, or other items within an enclosed storage area should not be substantially visible from adjoining streets or properties.

c. All loading, delivery and service bays should not front onto a public street and shall be screened from public view with at least a six foot wall, constructed of brick, slump block, or masonry with a stucco or mortar wash finish, designed to match the main building on the site. Exception: In the I-1 zone, these bays must be screened from arterial streets only.

d. Dismantling, servicing, repairing, etc. of vehicles and/or equipment shall be within completely enclosed building or within an area enclosed by brick, block, or masonry walls.

e. Parking lots shall be screened from street view in accordance with subsection 12 (5).C. [C.4. of this section].

f. Outside display of cars, boats, trailers, trucks and other vehicles shall meet the screening requirements for parking lots.

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g. Car wash service bays shall not face onto or be substantially visible from any public street and are subject to the screening standards in subsection 12(5).C. [C.4. of this section].

2. *Service station design standards.*

a. The repair of motor vehicles shall not include painting, upholstering, body and fender work or major overhauling.

b. The minimum dimension of any service station site shall be one hundred fifty (150) feet.

c. Pump islands shall be located at least 30 feet from the street right-of-way line.

d. The outside display of tires, oil or other sale items shall be located adjacent to the main building.

e. Service areas and bay doors shall not front onto or be substantially visible from any public street and are subject to the screening standards in subsection 12(5).C. [C.4. of this section].

f. Service stations, which are situated within a larger commercial development, shall be separated from adjacent property by a three foot wall, landscaping, or curbing, except for necessary driveways, in order to control vehicular movements and circulation.

g. The design of the service station building and site shall be compatible with the type of development in or anticipated in nearby areas.

h. Service stations shall be subject to all landscaping and design standards contained in this section, including screening of parking and maneuvering areas with walls and landscaping.

3. *Driveways.*

a. The following schedule shall serve as a guide for the allowable number of driveways on a site, unless modified by traffic studies:

(1) One driveway per abutting street;

(2) One additional driveway for sites with a continuous frontage of at least three hundred (300) feet; or two additional driveways for sites with a continuous frontage of at least six hundred (600) feet;

(3) An additional service driveway may be allowed where patrons of the development are not likely to use it (example: service driveway for a shopping center).

b. Driveways shall not be located closer than 100 feet to a street intersection (may be reduced to seventy-five (75) feet in certain instances of hardship).

c. The joint use of a single driveway by two or more adjoining parcels is encouraged.

d. Right-turn lanes along public streets are encouraged for establishments with high vehicle counts to reduce disruption to through traffic. A right-turn lane should be considered for retail sites with more than eighty thousand (80,000) square feet of building area. The right-turn lane should be utilized at the primary entrance to the site.

e. All buildings must have adequate access for fire and emergency vehicles. The minimum width of a fire lane is 20 feet.

4. *Miscellaneous design standards.*

a. No walls, buildings, or other obstructions to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty-three (33) feet from the intersection of the street right-of-way lines. Trees may be located within the triangle provided they are pruned to permit unobstructed vision.

b. All trash or refuse collection areas shall be enclosed by a six foot masonry wall, styled to match the material of adjacent walls or the main building on the site.

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c. All outdoor lighting shall be directed down and screened away from adjacent properties and streets.

d. All undeveloped building pads within developed shopping centers or similar projects shall be either paved in asphalt or landscaped to control dust and erosion.

e. Electrical utility, cable TV and all other utility lines for buildings shall be placed underground. Overhead lines are prohibited.

E. *Building Design.*

1. *Intent.* The intent of this section is to establish standards to encourage the orderly and harmonious appearance of structures along the county's thoroughfares.

2. *General requirements.*

a. The architecture of buildings shall not be prescribed and the city encourages variety in the style of structures. The architectural character of a proposed structure, however, shall be in harmony with and compatible to those in the immediate proximity, but avoiding excessive variety or monotony.

b. The county encourages and expects high quality construction and design of buildings with respect to materials, colors, finishes, form and scale.

c. Signage shall be considered an integral design element of any building and shall be compatible with the exterior architecture with regard to location, scale, color and lettering.

d. The building facades of large, massive structures shall be architecturally styled to achieve a smaller scale consistent with the character of Sandoval County. Large building walls shall be broken to reduce scale and provide variety to the streetscape by use of landscaping and architectural treatment.

e. Buildings should be sited and designed to achieve an optimum level of energy efficiency with regard to solar orientation.

f. Mechanical equipment, whether ground level or roof-mounted, shall be screened from public view and be so located to be perceived as an integral part of the building.

g. Accessory equipment capable of generating noise and vibrations shall be properly insulated and the noise and vibrations shall not be apparent from adjacent properties or the public right-of-way.

h. Mission tile, concrete tile, wood shake, or similar grade roofing material shall be used on all pitched roofs.

i. Equipment such as, but not limited to, telephones, vending machines, and ice machines shall be screened from street view and placed in an area designed for their use, which is an integral part of the structure.

j. All four sides of a building shall receive consistent architectural treatment.

3. *Specific building design requirements.*

a. Buildings with metal or steel exteriors shall be architecturally altered through the construction of veneers, facades, or other architectural treatments and installation of landscaping to minimize the extent of metal surfaces visible from the street. All roof-mounted mechanical equipment shall be screened in accordance with Section 12(4).D.1.

b. Drive-thru windows shall not face onto a public street. Stacking lanes shall be screened from the street with three foot masonry walls and/or berms.

c. All buildings located within a unified, planned development, such as a shopping center, shall be architecturally styled to achieve harmony and continuity of design. Building elevations shall be coordinated with regard to color, texture, materials, finishes, and form.

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Sec. 13. - Urban Off-Street Parking.

A. *Purpose.* The intent of this section is to establish standards for the provision of adequate off-street parking, loading and maneuvering spaces for the uses permitted in this ordinance in a manner which is safe, efficient, convenient and visually attractive.

B. *Applicability.*

1. Off-street parking and/or loading space shall be provided as prescribed herein at the time of:

   a. Construction of a new building;

   b. Any new uses of land;

   c. Enlargement or addition of any new nonresidential building or use of land;

   d. Creation of a new residential unit by adding to or subdividing an existing residential unit.

2. All required spaces shall be located on the lot or a contiguous lot, upon which the use is located.

3. Prior to the construction of any parking lot or the conversion of any land area for parking use, there shall be submitted to the County Development Department, a parking plan graphically describing the location and size of all parking stalls, driveways, walkways, landscaped areas, retention basins, and other improvements. The parking plan may be submitted as part of the site plan review requirement as outlined in Section 15.G.1. if the parking lot is proposed for construction in conjunction with a building.

C. *Definitions.*

1. *Gross floor area.* The sum total of the areas of the floors of a building measured from the exterior faces of exterior walls or from the centerline of walls separating two buildings; but not including underground parking spaces, uncovered steps, exterior balconies and exterior walkways.

2. *Off-street parking space.* A paved and properly drained area, enclosed or unenclosed, required by this Code to be permanently reserved for parking one motor vehicle. The size of such space shall be determined by Section 13.F.

3. *Commercial vehicle.* Any motor vehicle with a manufacturer's chassis rating greater than one ton.

D. *General requirements.*

1. All required off-street parking space shall be connected with a public street by a paved driveway not less than 20 feet in length within the property line.

2. All parking areas and driveways shall have a surface of masonry, concrete or asphalt except in the R1-35 Districts where a dust free surface is permitted.

3. Minimum driveway widths shall be 20 feet for two-way drives and 14 feet for one-way drives.

4. Required parking spaces shall not occupy the required front or street side yard in all districts, except as permitted in the I-1 District.

5. Tandem arrangement of required spaces is prohibited.

6. All commercial, industrial, and multifamily uses are prohibited from using alleys as access points to parking areas where the alley is adjacent to an Urban Single-Family Residential District.

7. Where access to a parking lot or space for uses other than single-family residential is provided by an alley, said alley shall be minimum 20 feet wide and paved to the nearest intersecting street as required by city standards.

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8. Motor vehicles may be parked in the front yard only when on an improved driveway leading to required off-street parking.

9. On all residential lots, the parking of one or more commercial vehicles with a manufacturer's chassis rating exceeding five tons or the parking of two or more commercial vehicles with a manufacturer's chassis rating of less than five tons shall be considered a commercial use and is prohibited. Said commercial vehicles shall not be parked in the required front or street side yard and shall be screened from street view.

10. All off-street parking lots shall be screened from street view and landscaped in accordance with Section 13 of this ordinance.

12.[11.] In Urban Single-Family Residential Districts, one additional parking space in excess of minimum requirements shall be permitted in the front yard. Such space shall be paved.

13.[12.] All vehicular egress from parking lots to public right-of-way shall be by forward motion only, except in the case of single-family and two-family residences fronting on a local street or a primary or secondary collector street.

14.[13.] Except where a wall is required, six-inch vertical concrete curbing shall be required around the perimeter of the parking area to protect landscaped areas and control vehicular circulation and the flow of stormwater.

15.[14.] Within the Urban Residential Districts, recreational vehicles, boats, and trailer shall not be parked in the required front yard of a lot. Such vehicles, boats, and trailers may be stored in the side or rear yard of the lot, provided they are screened from street view by solid fencing or walls.

E. *Required Parking Schedule.* Except where noted, required parking is based on the gross square footage of the building.

1. *Residential Uses.*

Type	Required Parking
Single-family	2-car garage/unit
Two-family	2-covered spaces/unit
Mobile home	2 spaces/unit
*Multifamily:	
Efficiency	1.5 spaces/unit
1 Bedroom	1.5 spaces/unit
2 Bedroom	1.75 spaces/unit
3 Bedroom	2 spaces/unit
Townhouse	2 spaces/unit

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;sz=9.5q;*Plus: One visitor space per ten units must be provided. At least one space per multifamily unit must be covered and assigned to a unit.

2. *Institutional Uses.*

Type	Required Parking
Churches:	
Main assembly building or area	1 space/100 sq. ft.
Classroom, other buildings	1 space/classroom plus 1 space/200 sq. ft. floor area in office use
Elementary & JHS	1 space/200 sq. ft.
High schools, colleges	1 space/200 sq. ft.
Trade, business schools	1 space/200 sq. ft.
Hospitals	1 space/200 sq. ft.
Convalescent home	1 space/3 beds
Government offices	1 space/200 sq. ft.

3. *Commercial Uses.*

Type	Required Parking
Auditoriums, theaters, stadium or similar place of assembly	1 space/160 sq. ft. or 1 space/4 seats, whichever is greater
Private clubs, lodges, (no overnight accommodations)	1 space/200 sq. ft. or 1 space/5 seats in main assembly whichever is greater
Dance halls, skating rinks, amusement center, recreation centers	1 space/200 sq. ft.

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Child care center	4 spaces plus 1 space per 10 children that center is licensed to accommodate
Funeral homes	1 space/4 seats in main assembly area or 1 space/300 sq. ft.
Medical, dental offices, clinics	1 space/200 sq. ft.
General offices and non-retail commercial	1 space/250 sq. ft.
Hotels, motels, boarding homes, guest homes	1 1/3 spaces per sleeping room
Recreational vehicle parks	1.1 spaces per RV space
Restaurants, cafes, bars, cocktail lounges	1 space/50 sq. ft. of indoor public area and 1 space/200 sq. ft. of outdoor area
Retail sales	1 space/300 sq. ft.
Bulky merchandise sales, nurseries, building materials, equipment rental	1 space/300 sq. ft.
Banks and personal service	1 space/150 sq. ft.
Bowling alleys	4 spaces/lane
Tennis, handball courts	3 spaces/court
Golf course	1 space/200 sq. ft. in main building PLUS 4 spaces per green

4. *Industrial [Uses].*

Type	Required Parking
Manufacturing and industrial uses	1 space/500 sq. ft.

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Warehousing	1 space/500 sq. ft. for first 10,000 sq. ft. plus 1 space per 5,000 sq. ft. remaining gross floor area.

5. *[Mixed Uses.]* In the case of mixed uses, the total requirement for off-street parking space shall be the sum of the requirements of the various uses computed separately as specified in this section.
6. *[Cumulative parking space requirements.]* Cumulative parking space requirements for mixed-use occupancies may be reduced where it can be demonstrated that the peak requirements of the several occupancies occur at different times. Special exceptions to the total number of spaces required by the addition of all of the uses shall be considered through the conditional use permit procedure of this Code if supported by a parking demand study.

F. *Parking and Access Standards.*

1. Parking space sizes.
   a. The standard parking space shall be nine feet wide by 18 feet long unless specified otherwise by this Code.
   b. Parking spaces within long term parking areas servicing offices or industry may be reduced in size to eight (8) feet by 18 feet, provided the spaces are "designated" for employee parking through markings on wheel stops or pavement, use of directional signage, and/or segregation by separate driveways.
   c. A two foot wide landscape strip for vehicle overhang is permitted at the front of a parking space. Such landscape strip shall not count towards the minimum amount of landscaping required by this Code.
2. Parking lot aisle widths shall be in accordance with the following schedule:

Angle of Parking					
	*Parallel	30	45	60	90
One-way aisle	12'	12'	13'	18'	24'
Two-way aisle	18'	18'	18'	18'	24'

;sz=9.5q;*Parallel parking spaces shall be twenty-two (22) feet long.

G. *Accessible Parking.*

1. Accessible parking for nonresidential developments shall be provided in conformance with the, Americans with Disabilities Act (ADA) and International Building Code (IBC) as amended.
2. Accessible parking for multiple-family residential developments shall be provided in conformance with the Americans with Disabilities Act (ADA), Federal Fair Housing Act (FFHA) and International Building Code (IBC) as amended.

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Sec. 14. - Supplementary Regulations.

A. *Applicability.* Notwithstanding any specific requirements outlined in this ordinance, the following general regulations, where applicable, shall apply.

B. *General Requirements.*

1. No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale or for use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.
2. Every dwelling shall be located and maintained on a "lot" as defined herein.
3. No space needed to meet the width, yard, area, coverage, parking or other requirements of this ordinance for a lot or building may be sold or leased away from such lot or building.
4. No parcel of land which has less than the minimum width and area requirements for the zone in which it is located may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.
5. Every part of a required yard shall be open to the sky and unobstructed except for accessory buildings in a rear yard. The ordinary projections of skylights, window sills, belt courses, cornices, chimneys, flues and other ornamental features and open or lattice enclosed fire escapes, fireproof outside stairways and balconies may project into a yard not more than five feet except in the case of a side yard where it shall not come nearer than three feet.
6. No lot shall be divided in such a way that any division of such a lot shall contain more dwelling units than are permitted by the zoning regulations of the district in which such lot is situated.
7. On an interior lot, in any Urban Residential District, having no access to an alley and where the garage or carport is not attached to the main building, required side yards shall be maintained.
8. A mobile home, recreational vehicle, or similar vehicle shall not be considered a dwelling unit, nor occupied as such unless located in a recreational vehicle or mobile home park or mobile home subdivision. A mobile home, recreational vehicle, or similar vehicle shall be prohibited as a facility for any nonresidential use permitted in this ordinance, except (1) construction trailers and offices which are required while construction is on-going on a site; and (2) as a residence for a caretaker and family in an industrial zone subject to a conditional use permit per Section 12(3).E.
9. Any enclosed porch or one capable of being enclosed shall be considered a part of the main building in the determination of the size of yard or lot coverage.
10. Bay windows, including their cornices and eaves, may project into any required yard not more than two feet, provided, however, that the sum of such projections on any wall does not exceed one third (1/3) the length of said wall.
11. Where two or more lots are used as a building site and where main buildings cross lot lines, then the entire area shall be considered as one lot, except that the front of the parcel shall be determined to be the front of the individual lots as originally platted or laid out.
12. In all zones which require a front yard, no obstruction to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points thirty-three (33) feet from the intersection of the street lines, except trees pruned high to permit unobstructed vision for automobile drivers; and pedestal type identification signs and pumps at gasoline service stations.
13. Mechanical equipment, including but not limited to heat/cooling equipment, pool pumps, electrical equipment and motors directly related to the primary use of the property, shall be restricted from use in the front yard.

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C. *Detached Accessory Buildings.* In all residential districts, detached accessory buildings shall conform to the following restrictions concerning their locations on a lot.

1. Any detached accessory building not in the rear one-half (½) of the lot shall maintain such yards as are required for a dwelling unit on the same lot.

2. All detached accessory buildings placed in the rear half (½) of the lot may encroach into the required rear and side yard setbacks except in the following instances:

   a. On a through lot, the accessory buildings shall not be located closer to the rear property line than the distance required for front yard setback.

   b. On a corner lot contiguous to a key lot, no detached accessory building shall be erected or altered so as to come closer to the street side of the corner lot than the front yard required on the key lot, but in no event greater than twenty-five (25) feet.

   c. On any other corner lot, the accessory buildings shall not be located closer to the street side property line than the setback required for the main building.

   d. On a lot in the R1-35 District, the accessory buildings shall not be located closer than 20 feet to rear and side property lines.

3. No building which is accessory to any residential building shall be erected to a height greater than 15 feet; except on a residential lot in the AG District, a shelter for the keeping of animals or fowl may be erected to the maximum height allowable for the main building in that district.

4. No accessory buildings shall occupy more than twenty-five (25) percent of the area lying between the rear of the main building and the rear property line.

5. No detached accessory building designed or used for sleeping or living purposes shall be closer to any line than is required for a dwelling unit on the same lot.

D. *Height Limitations.* The following limitations shall apply:

1. Attached church spires, crosses, belfries, cupolas, flagpoles, clock towers, or similar features may extend above the roof no more than the height of that building. Detached features shall be no greater than twice the height of the highest building on site.

2. Chimneys, bulkheads, penthouses and domes not for human occupancy, ventilators, skylights, water tanks, and other similar mechanical equipment shall be limited to 12 feet above the roof level.

3. Parapet walls or cornices (without windows) may extend to a maximum of five feet above the building height limit.

4. All antennae and towers greater than thirty-five (35) feet measured from grade (refer to Section 6, definitions) shall require a conditional use permit (see Section 12(3). Any antenna or tower exceeding thirty-five (35) feet measured from grade shall be located at least one foot from all property lines for every foot of the antenna's or tower's height above grade.

E. *Fences and Walls.* The following restrictions on fences and walls shall apply:

1. In all Urban Residential Districts, the maximum height of freestanding walls or fences in a required front yard setback shall be three feet. In the areas behind the required front yard setback, and in the rear and side yards, the maximum height of such walls shall be six feet, except as noted below.

2. In residential districts, walls along the rear of reverse frontage of lots or walls adjacent to multifamily, commercial, or industrial uses or districts may have a maximum height of eight (8) feet.

3. Open wire fences exceeding the above heights may be built around schools and other public or quasi-public facilities when necessary for the safety or restraint of the occupants.

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4. Open wire fences exceeding the above height limitations may be built around tennis courts along the rear and side yards only by approval of a conditional use permit.

5. a. On a corner lot contiguous to a key lot, fences or freestanding walls over three feet in height may be placed upon the property line except within a triangle measured ten feet from the street along the common lot line, and 20 feet along the property line extending from the common lot line towards the front of the corner lot.

   b. On a key lot contiguous to a corner lot, a six foot fence or freestanding wall may be erected along that portion of a key lot contiguous with the rear yard of the corner lot, but, such fence or wall shall not come closer to the front line of the key lot than ten feet.

6. The height of a fence shall be measured from the higher of the adjacent finished grade elevations, which elevation shall be the average measured within fifty (50) feet of the fence.

F. *Swimming Pools.* The following regulations shall apply to all swimming pools.

1. All swimming pools shall be enclosed by a solid wall or fence or chain link fence not less than five feet in height. All gates shall be self-closing with self-closing latches and be constructed in such a manner as to prevent uninvited access. Wrought iron gates and fences shall have bar openings spaced at a maximum of four inches.

2. In any Urban Single-Family Residential District, private swimming pools shall be located in the side or rear yards, shall not be any closer than three feet to any property line and may not be located within any recorded easement except with a written approval of the easement holder. In case of a corner lot, a pool may not be located closer than five feet to the street side property line.

3. In any district other than those above, a private swimming pool or a semi-public swimming pool shall not be closer than seven feet to any property line, except that in the case of a corner lot, a swimming pool shall not be closer than ten feet to the side property line on the street aside.

4. No public swimming pool shall be located closer than twenty-five (25) feet to any lot line on the lot on which it is situated.

5. The above regulations shall apply to all non-permanent wading pools made of rubber, plastic or similar materials containing water with a depth of more than 18 inches.

6. Swimming pools shall not be located in the required front yard of any district.

G. *Outdoor Lighting.*

1. *Purpose.* These regulations are intended to establish procedures and standards that ensure minimal light pollution, reduce glare, increase energy conservation and maintain the quality of Sandoval County's physical and aesthetic character. These regulations further implement the Sandoval County Comprehensive Plan and are found to be in the furtherance of the public health, safety and welfare. They are also intended to aid in the control of lighting that detrimentally affects astronomical observation. For the purposes of this section, "visible from contiguous real property" shall mean any light levels, which exceed a light level of one foot candle at the property line.

2. *Applicability.* These regulations shall not apply to lighting installed prior to the effective date of this Ordinance. These regulations shall not apply to public streetlights. These regulations shall apply to all outdoor lighting including, but not limited to, search, spot or floodlights for:

   a. Buildings and structures.

   b. Recreational areas.

   c. Parking lot lighting.

   d. Landscape lighting.

   e. Other outdoor lighting.

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3. *Standards.*

a. *Recreational lighting.* The following standards apply to the lighting of all outdoor recreational facilities except baseball, softball, soccer, volleyball or football fields; driving ranges; and outdoor arenas and amphitheaters, or other field recreation facilities.

(1) The height of any light fixture or illumination source shall not exceed 20 feet.

(2) All lighting or illumination units or sources shall be hooded or shielded so that they are not visible from any contiguous lot or real property.

(3) Lights or illuminating units shall not cause light to be cast upon any contiguous real property, either directly or through a reflecting device.

(4) All of the recreational lighting excepted from the above standards shall meet the following standards:

(a) All metal halide lamps shall be filtered by glass, acrylic, or translucent enclosures.

(b) No lighting of one hundred fifty (150) watts or greater shall be used after 11:00 p.m. contiguous to any residential district or use.

(c) Shields shall be provided to control external glare and minimize uplight and offsite light trespass so that light levels do not exceed one foot candle at the property line contiguous to residential districts or uses.

(d) Lighting for special events after 11:00 p.m. requires a temporary use permit for areas contiguous to any residential district or use.

b. *Sign lighting.* External lighting of the face of signs shall be placed above the sign and shielded in a manner that the illumination source shall not be visible from any contiguous lot or real property. All signage shall be constructed in conformance with the Sandoval County Sign Ordinance.

c. *Security, landscaping, architectural, or other lighting.*

(1) All other outdoor lights shall be shielded and directed according to the following schedule:

Wattage of Each Light Source	Shielding Required	Directed Downward
Up to 100	No	No
100 to 175	Yes	No
Over 175	Yes	Yes

(2) Building mounted light fixtures shall be attached only to walls and the top of the fixture shall not be higher than the top of the parapet or roof, whichever is higher. Said lights shall be shielded and directed downward.

d. *Other pole-mounted lighting (parking, walkways, etc.).*

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(1) All lights mounted on poles eight (8) feet or greater in height shall be directed down. The light source shall be shielded so that it will not be visible from any contiguous real property.

(2) Any pole-mounted lighting shall have a maximum height of twenty-five (25) feet. In or within thirty-five (35) feet of any residential zoning district and all light fixtures shall not exceed 16 feet in height.

e. *Searchlights.* The operation of searchlights shall be allowed subject to the following conditions:

(1) During the months of May through October, searchlights shall be operated only between the hours of 6:00 a.m. and 11:00 p.m.;

(2) During the months of November through April, searchlights shall be operated only between the hours of 7:00 a.m. and 10:00 p.m.; and

(3) Searchlights shall not be operated on residentially zoned properties except for grand openings of new developments.

(4) All searchlights shall be pointed skyward such that no direct light therefrom shall shine upon any building or structure.

f. *Mercury vapor lamps.* The installation of mercury vapor fixtures is prohibited.

3.[4,] *Submittals required.* All new construction or reconstruction shall submit an outdoor lighting plan for the entire site, which indicates how the standards of this Section are to be met.

4.[5.] *Nonstandard lighting.* Any lighting, which does not meet the standards of this Section 14.G. shall require a use permit.

Sec. 15. - Administration.

A. *Administrative Official.* The Zoning Officer shall administer the provisions of this Ordinance.

B. *Inspection.* The Zoning Officer has the authority to conduct inspection of buildings, structures and the use of land to determine compliance with this Ordinance. This provision does not grant right of entry without due process of law. The Zoning Officer shall provide for on-site inspections and other relevant information that may be requested by the County Board or the Zoning Commission as necessary to carry out the purpose of this Ordinance.

C. *Inspection Order.* Upon sufficient showing that consent to an inspectorial search has been refused by an owner, occupant, other appropriate responsible party, or is otherwise unobtainable within a reasonable period of time, the Zoning Officer may make application for an inspection order. Such application shall be made to a District Court judge having jurisdiction over the premises or vehicle to be searched.

1. The application shall be granted and the inspection order issued upon a sufficient showing that inspection in the area in which the premises or vehicles in question are located, or inspection of the particular premises or vehicles, is in accordance with reasonable legislative or administrative standards, and that the circumstances of the particular inspection for which application is made are otherwise reasonable. The District Court shall make and keep a record of its proceedings on the application, and enter thereon its finding in accordance with the requirements of this section.

2. The Zoning Officer shall, if the premises or vehicle in question are unoccupied at the time of execution, be authorized to use such force as is reasonably necessary to effect entry and make the inspection.

3. The Zoning Officer shall, if authorized by the issuing authority on proper showing, be accompanied by one or more law enforcement officers authorized to serve search warrants who shall assist the Zoning Officer in executing the order at his direction.

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4. After execution of the order or after unsuccessful efforts to execute the order, as the case may be, the Zoning Officer shall return the order to the issuing authority with a sworn report of the circumstances of execution failure thereof.

D. *Information and Records.* The Zoning Officer shall maintain an office to supply the public with information concerning this Ordinance, and shall maintain copies of this Ordinance and the Sandoval County Zoning Maps in an updated form. Zoning Files shall be maintained in the Planning and Zoning Office of the County and shall contain records of the following:

1. Conditional Use Approvals;
2. Variances Allowed Under this Ordinance;
3. Applications for Amendment to this Ordinance;
4. Certificates of Nonconformance;
5. Zoning Appeals;
6. Zoning Violations and Complaints; and
7. Special Requirements in accordance with Sections 17 and 19 of this Ordinance;

E. *Official Ordinance and Maps.* The County Clerk shall maintain all original copies of this Ordinance, and subsequent amendment hereto, and the Official Zoning Maps.

F. *Violation; Complaints and Notification.* The Zoning Officer may institute any appropriate actions or proceedings whenever there is probable cause to believe there is a violation of this Ordinance. Any person aggrieved by an apparent violation of this Ordinance shall file a written complaint with the Zoning Officer who shall immediately document in writing the nature of the complaint and investigate such complaint to determine if a violation of this Ordinance is found to exist. Whenever the Zoning Officer finds probable cause to believe a violation of this Ordinance exists, whether acting on independent initiative or in response to an investigated complaint, the Zoning Officer shall notify the person responsible for the alleged violation in writing. Such notification shall order the necessary correction to be made within 30 days following the date of notification. Any person who fails to comply with the notification order shall be subject to penalties as stated in Section 24 of this Ordinance.

If a landowner fails, refuses, or is unable to remedy the violation within 30 days of a Court order affirming the violation, the County may take such action as is necessary to remediate the violation. The County may remediate the violation itself or may employ an independent contractor to correct the violation in the County's sole discretion. The County has the right to place a lien upon the property for the cost of the remediation, pursuant to state law (NMSA 1978, §§ 3-36-1 et seq. and 4-37-1).

G. *Building Permits.* Building permits, applications for building permits, and certificates of occupancy within the County's zoning jurisdiction shall be considered by the Zoning Officer upon submission of appropriate construction plans, accompanying materials as specified in Section 15(G)(1) of this Ordinance, and the required fee. Approval shall be granted only if same are found to be in compliance with the provisions of this Ordinance.

(1) *PLAN SUBMISSION REQUIREMENTS.* All construction requiring a building permit under the terms of the relevant Building Code(s) adopted by the State of New Mexico shall require the submission of construction plans to the Zoning Officer. Any applications that are missing required material shall be deemed incomplete and will not be accepted by the Zoning Officer. Proof of connection to an approved community sewer system may replace the requirement for an onsite liquid waste disposal permit. All construction on new or existing structures will require a proper solid waste disposal container. On new construction, an approved liquid waste disposal unit must be provided onsite unless the contractor has other access to restroom facilities. Submissions for approval of construction by the Zoning Officer under this section must include, at a minimum, the materials listed below. The Zoning Officer may, at his/her discretion require additional information should the circumstances warrant.

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[(2)] *REQUIRED MATERIALS.*

[a.] *New Residential Construction.*

1. Building Permit Application from the appropriate authority.
2. State of New Mexico Environment Department (hereinafter "NMED") Liquid Waste Permit, and stamped floor plan.
3. Site Plan.
4. Where applicable, site drainage plans approved by the appropriate authority.

[b.] *Residential Additions.*

1. Building Permit Application from the appropriate authority.
2. Floor plan (If addition is/are bedroom(s), the NMED must review and stamp the floor plans).
3. Site Plan.

[c.] *Manufactured/Mobile Home Placement.*

1. Copy of NMED Liquid Waste Permit and stamped floor plans.
2. Site Plan.
3. Proof of age for Mobile Homes.
4. Appropriate stamp from Federal Housing & Urban Development Department.
5. New Mexico Manufactured Housing Division (hereinafter "MHD") Foundation and/or Installation Permit Application(s).

[d.] *Modular Construction.*

1. Copy of a Building Permit issued by the appropriate authority.
2. Application for Foundation Permit.
3. Foundation Plans.
4. NMED Liquid Waste Permit with stamped floor plans.
5. Site Plan.

[e.] *Foundation Only.*

1. Building Permit Application from the appropriate authority/MHD Permit.
2. Site Plan.

[f.] *Retaining Walls.*

1. Building Permit application from the appropriate authority.
2. Site Plan.
3. Wall/foundation plan stamped by a New Mexico Registered Engineer or Architect.

[g.] *Fencing (over 6 ft in height).*

1. Building Permit application from the appropriate authority.
2. Site plan.
3. Wall plan.

[h.] *Swimming Pools.*

1. Building Permit application from the appropriate authority.

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2. Site Plan.
3. Pool plan.

[i.] *Commercial/Multiple family Residential.*

1. Building Permit application from the appropriate authority that is signed by a Contractor with the applicable license issued by the State of New Mexico.
2. Site Plan, including Parking Plan.
3. Complete set of Construction Plans.
4. Landscaping Plan.
5. If property is located on a State Highway, a copy of an access permit from the New Mexico Department of Transportation, if required.
6. Drainage Plan prepared and stamped by a New Mexico Registered Professional Engineer, if required.
7. NMED Liquid Waste Permit with stamped floor plans.

Sec. 15(1). - Health and Sanitation.

A. *Findings and Purpose.*

1. It is the purpose of this Section to promote the health, safety and welfare of the citizens of the county by protecting property from blighting and deteriorating conditions by establishing minimum standards governing the maintenance, appearance and conditions of all residential and nonresidential premises.
2. It is the purpose of this Section to enhance the beauty and quality of the environment; promote the conservation of natural resources; prevent the spread of disease and the creation of nuisances; and to provide for the abatement of public nuisances.
3. In the interest of city residents, it is necessary to prohibit the accumulation of litter, refuse, rubbish or other solid waste, weeds, inoperable or abandoned vehicles on property, and water wastage within the corporate limits of the city by declaring such as public nuisances.
4. This subchapter [section] shall apply to all buildings, structures and lands within the city without regard to use, the date of construction, improvement or alteration.

B. *Definitions.* For the purpose of this Section only, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. *"Abandoned vehicle"* means a motor vehicle which has remained for more than 48 hours in a condition described by one of the following:
   (a) Without license plates or a temporary registration conspicuously displayed thereon; or
   (b) With license plates which have an expiration date more than 90 days prior to the date of inspection.
2. *"Airborne particulate matter"* means material discharged into or suspended in the air in finely-divided form, i.e., sand or dust.
3. *"Aircraft"* means any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air including helicopters, lighter-than-air conveyances.
4. *"Authorized private receptacles"* means a litter storage and collection receptacle as required in this code [ordinance].
5. *"Blight" or "Blighted"* means unsightly conditions, including the accumulation of debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is

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dead, characterized by uncontrolled growth or lack of maintenance, or is damaged and any other similar conditions of disrepair and deterioration regardless of other properties in the area.

6. *"Debris"* means any substance of little or no apparent economic value, which may be present in accumulations in excess of six inches in height and ten inches in diameter, including but not limited to deteriorated lumber, old newspapers, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, car parts, abandoned or neglected equipment, or the scattered remains of items.
7. *"Deterioration"* means the condition or appearance of a building, structure or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect or lack of maintenance.
8. *"Digging"* means excavating or turning up the soil with a spade or other hand tool.
9. *"Dust"* means very fine particles that become airborne due to wind, traffic and other human activity.
10. *"Enclosed structure"* means a structure at least six feet in height or tall enough to eliminate the public's view, including neighbors, of the interior and meets all applicable building codes.
11. *"Exposed to public view"* means any premises, or any building or any part thereof, which may be lawfully viewed by the public or any member thereof, from a sidewalk, street, alleyway, open-air parking lot or from any adjoining or neighboring premises.
12. *"Exterior of the building"* means those portions of a building which are exposed to public view and the open space of any premises outside of any building erected thereon.
13. *"Exterior property areas"* means open space on the premises, on adjoining property and all sidewalks under the control of the owners or operators of the premises.
14. *"Extermination"* means the control or elimination of insects, rodents or other pests by recognized programs of integrated pest management which includes sanitation, harborage control and the use of approved pesticides and other legal pest elimination methods.
15. *"Fences", Screen walls", or "Retaining walls"* means self-standing structures designed to provide semi-privacy, security or bank retention between grade separations.
16. *"Fire Hazard"* means any thing or act which may increase or may cause any increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by the Fire Inspector, or which may obstruct, delay or hinder the prevention, suppression or extinguishment of fire.
17. *"Fire Inspector"* means any Sandoval County Fire Department personnel authorized to exercise the powers and duties required in administering and enforcing the fire code.
18. *"Garbage"* means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.
19. *"Grading"* means leveling the soil and the removal of vegetation.
20. *"Handbill"* means any printed, reproduced or written matter, or any sample or device which advertises any business, commercial establishment, person, meeting, exhibition, theatrical performance or other activity, for the purpose of either directly or indirectly promoting the interest thereof; or which, while containing reading matter other than advertising matter, is predominantly and essentially for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser for distributor, however, "newspaper," as defined herein, is not to be construed to be included within the definition of "Handbill".
21. *"Hazardous waste"* means any chemical compound, mixture, substance or article which is identified or listed by the United States Environmental Protection Agency or appropriate agency of the state, except that, for the purpose of this article, hazardous waste shall include household waste,

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22. *"Health hazard"* means the presence of any items which adversely impact or jeopardize the well-being or health of an individual. Such items include human waste, medical or biological waste, sharps, gaseous or combustible materials, radioactive waste, dangerous or corrosive chemicals or liquids, flammable or explosive materials, friable asbestos, offal and decay matter.
23. *"Infestation"* means the apparent presence of unpleasant, damaging or unhealthful insects, rodents, reptiles or pests.
24. *"Inoperative" or "Inoperable vehicle"* means any motor vehicle which by reasons of dismantling, disrepair or other cause is incapable of being propelled under its own power.
25. *"Landfill"* means an area of land or an excavation in which solid wastes are placed for disposal and that employs an engineered method that minimizes environmental hazards and meets the requirements of the state solid waste regulations.
26. *"Litter"* means decaying or non-decaying solid and semi-solid wastes, including but not limited to both combustible and non-combustible wastes, such as paper, trash, cardboard, waste material, cans, yard clippings, wood, glass, bedding, scrap paving material, discarded appliances, discarded furniture, dry vegetation, trees, which may harbor insect or rodent infestations or may become a fire hazard, and piles of earth mixed with any of the above foreign objects, including inoperable vehicles.
27. *"Lot"* means a parcel or tract of land, platted and placed on the Sandoval County Clerk's record in accordance with applicable laws and ordinances, generally as a portion of a subdivision intended for development purposes, including public right-of-way.
28. *"Motor vehicle"* means any wheeled vehicle which is self-propelled or intended to be self-propelled.
29. *"Newspaper"* means any newspaper of general or local circulation as defined by general law; any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation; any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
30. *"Occupant"* means a person, persons or legal entity that, through rights of ownership or tenancy, has possession or the use and enjoyment of the subject real property.
31. *"Owner"* means a person, persons or legal entity listed as the current title holder as recorded in the official records of the Sandoval County Assessor's Office.
32. *"Premises"* means a lot, plot or parcel of land including the structures thereon.
33. *"Public Nuisance"* means creating, performing or maintaining anything affecting without lawful authority any number of citizens which is either injurious to public health, safety or welfare, or interferes with the exercise and enjoyment of public rights including the right to use public property.
34. *"Public place"* means any and all rights of way, and any and all public parks, spaces, grounds and buildings.
35. *"Public right-of-way"* means paved or unpaved streets and adjoining public real property, alleys, drainage, gutter or other public easements and lined or unlined drainage channels which comprise the municipal storm drainage system.
36. *"Refuse"* means, but is not limited to all putrescible and nonputrescible solid wastes (except body wastes) including ashes, waste or unwholesome material of any kind, street cleanings, dead animals, abandoned motor vehicles, vehicle parts and solid market and industrial wastes.
37. *"Responsible party"* means an occupant, lessor, lessee, manager, licensee or other person having control over a structure or parcel of land; and, in the case where the demolition of a

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structure is proposed as a means of abatement, any lien holder whose lien interest is recorded in the official records of the Sandoval County Assessor's Office.

38. *"Rubbish"* means, but is not limited to all nonputrescible solid wastes such as paper, cardboard, cans, wood, yard clippings, leaves, glass, bedding, crockery and other similar materials.

39. *"Screened area, exterior"* means an area separated by a permanent non-flexible device to completely conceal one element of a property from other elements or from adjacent or contiguous property. Examples include, but are not limited to fencing six feet in height that is made from solid brick or chain link fencing with opaque slats.

40. *"Solid waste"* means, but is not limited to any garbage, litter, refuse, rubbish, special waste, white goods, debris and other discarded materials originating from residential, commercial or industrial sources.

41. *"Special waste"* means, but is not limited to any solid waste which requires special handling or a special sign such as, but not restricted to, incinerator ash, infectious and noninfectious medical waste, petroleum products, hazardous waste, white goods and tires.

42. *"Tillage"* means cultivating, plowing or turning over the soil.

43. *"Vegetation"* means plant life of any kind.

44. *"Water"* means water provided through the system through which the county receives its water or any extensions thereof, as well as through private wells and delivery systems.

45. *"Water waste"* means the non-beneficial use of water that is supplied by any water supply system within the county.

46. *"Weeds"* means Pigweed (lamaranthus retroflexus), Russian thistle (salsola pestifer), or ragweed (ambrosia spp.) commonly referred to as tumbleweeds. For the purpose of this Section, "weeds" shall also mean plants that, by reason of abandonment, lack of care or lack of maintenance, choke out growth of other plant material in the area, and dead, dying or unattended plant life, named or unnamed, which is abandoned or overgrown.

47. *"White goods"* means, but is not limited to any major appliances, such as washing machines, clothes dryers, hot water heaters, stoves and refrigerators.

C. *Building and Structure Exteriors.*

1. All exposed exterior surfaces shall be maintained so as to be free of deterioration that is a threat to health and safety, or shall not otherwise present a deteriorated or blighted appearance. Examples of the deterioration and blight include, but are not limited to:

   a. Stucco or paint that is deteriorated, indicated by peeling, flaking, cracked, blistering or mildew, resulting in exposed, bare unprotected surfaces over more than 30% of the exterior.

   b. Window screening that is not maintained in good condition.

2. All structures on premises shall be safe, structurally sound and shall be maintained so that they do not constitute a hazard, blight or condition of disrepair. Examples of hazards, blight or conditions of disrepair are inclusive of, but not limited to leaning fences, fences that are missing numerous slats or blocks, graffiti, peeling paint, deterioration of paint or materials and rotting or damaged materials.

D. *Inoperable or Abandoned Vehicles.*

1. Outdoor storage of inoperable or abandoned vehicles or parts thereof on the premises is prohibited. Inoperable or abandoned vehicles may be stored on the premises so as not to be visible from any adjoining property or public road.

2. This section shall not apply in an area where an activity is within the contemplated purposes of a duly licensed business with the appropriate zoning, or where vehicles are kept in an enclosed

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structure, or when vehicles are owned and actively being restored by the owner or tenant of the premises. A motor vehicle is being actively restored if within the last 30 days the owner has spent at least ten hours of labor in repairing, rebuilding or reconstruction of the motor vehicle. The burden shall be on the owner of the vehicle to prove that it is being actively restored which may include receipts for the purchase of parts and supplies during the last 30 days which have been installed on the vehicle.

3. Any person, being owner or tenant, may store, permit to be stored or allow to remain upon his residential premises, any dismantled, partially dismantled or inoperative motor vehicle, or parts thereof, for a period not to exceed one month, if the motor vehicle is registered in the resident's name; or

4. One inoperable or abandoned vehicle may be stored upon property within the county when not within a wholly enclosed structure, if fully covered and placed in the side or back yard. Any vehicle must be at least five feet from any property line and at least five feet from any permanent structure.

5. Any person violating this section may, in the event of hardship, request an extension of this subchapter's compliance period by a written request to the Director of County Development.

6. This section shall not be construed to permit the parking or placement of inoperable or abandoned motor vehicles on any public street. Placement of inoperable or abandoned vehicles on any public street is subject to enforcement by the Sandoval County Sheriff's Office.

E. *Dumping, Unlawful dumping or disposal of solid waste.* It shall be unlawful to dispose of solid waste in any manner other than as specified in this code [ordinance].

1. *Unlawful to dump.* It shall be unlawful for any person to place or dump solid waste or debris in any arroyo, streambed, drainage ditch, public fountain or any public body of water within the boundaries of the county.

2. *Dumping on property.* It shall be unlawful for any person to place or dump solid waste or debris on any property within the county whether owned by the person or not.

3. *Vacant lots or land.* Vacant lots or lands which have been the subject of repeated dumping shall be secured to prevent future occurrences of dumping. Methods of securing vacant lots or lands must be approved and may include permanent fencing, ditch or berm, or placement of four-foot high posts at four-foot intervals. Signs stating "no dumping" shall be erected in accordance with applicable ordinances on vacant lands which have been subject to dumping on more than one occasion.

F. *Administration and Enforcement.*

1. Except as otherwise provided in this Section, the Zoning Officer shall enforce this subchapter, which shall include the inspection of premises, the issuance of violations and the issuance of citations.

2. It shall be unlawful and a violation of this Section for the owner, builder, agent, lessee or occupant of any lot within the county to allow solid waste or debris to accumulate upon the property within the county, or to allow materials to accumulate and become in any way hazardous or injurious to public health or to obstruct pedestrian and vehicular traffic. Any responsible party who causes, permits, facilitates or aids or abets any violation of any provision of this subchapter shall be subject to enforcement as stated herein.

3. Any person aggrieved by a violation or apparent violation of this subchapter may file a written complaint with the Department of County Development, which shall investigate the complaint and take action to have the violation penalized and removed, if the violation is found to exist.

4. Any person violating the provisions of this subchapter may be issued a notice of violation or a citation to Magistrate Court.

   a. A notice of violation is a warning which requires a reasonable time limit for abatement, which shall not be more than 15 days after the issuance of the notice of violation, except as

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otherwise provided in this Section. The notice of violation shall be written and shall be served by personal delivery or by certified mail to the person's last known address, or by posting upon the property for ten calendar days. Upon the failure to abate a violation pursuant to the issuance of a notice of violation, a citation to Magistrate Court will be issued.

b. A notice of violation warning for any offense governed by this Section shall also serve as warning notice to the violator that subsequent offenses, within a 12-month period, shall result in a Court citation in lieu of additional notices of violation.

5. In those instances where unauthorized or improper grading or tillage of a lot occurs, the person that caused the violation shall revegetate or restore the property to its prior state; in accordance with a plan approved by the Zoning Officer.

6. Upon the failure of any person to abate a violation of this Section, the county may require the removal or mitigation of the violation at the expense of the person who caused the violation or the person in control of a property. Any person who causes property damages to public property shall be liable for the damage. The method for collection of costs to the county may include, but shall not be limited to, a lien pursuant to NMSA 1978, § 3-36-1 et seq.

Sec. 15(2). - Nuisances.

A. *Unlawful Activity.* It is unlawful to commit public nuisance. Public nuisance consists of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority which is either injurious to public health, safety, morals or welfare, or interferes with the exercise and enjoyment of public rights including the right to use public property.

B. *Nuisances Declared.* In the interest of the inhabitants of the county, it is necessary to prohibit the accumulation of junk, trash and refuse on property within the limits of the county by declaring the accumulation a nuisance. The following are hereby declared to be a public nuisance.

1. *Unoccupied premises.* It shall be unlawful for any reason for any person to sweep, place or throw solid waste or other waste materials in or upon any sidewalk, street, alley or unoccupied premises.

2. *Unsanitary premises.* It shall be unlawful for any person to permit or cause to remain in or about his premises any solid waste, weeds, motor vehicles not in operating condition, waste water or any conglomeration of residue thereof, which emits odors or serves as a feeding or breeding place for flies, insects or rodents. The accumulation of building materials, pipes, lumber or boxes may be maintained on the premises if the accumulation is evenly piled and stacked for a reasonable length of time.

3. *Hazardous premises.* It shall be unlawful for any person to permit in or about his premises weeds, briars, brush or any other solid waste to become in any way hazardous or injurious to public health or to obstruct pedestrian and vehicular traffic.

4. *Obstruction of fire protection equipment.* No person shall place or keep any post, fence, vehicle, growth, trash storage or other material or thing near any fire hydrant, fire department connection or fire protection system control valve that would prevent the equipment or hydrant from being immediately discernible or in any other manner deter or hinder the firefighters from gaining immediate access to the equipment or hydrant.

5. *Accumulation of solid waste.*

a. It shall be unlawful for any person to allow any solid waste to accumulate upon premises, owned, leased, rented or occupied by him during intervals between collection thereof, except in the manner herein provided.

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b. It shall be unlawful to deposit any solid waste in or upon the streets, alleys, sidewalks, gutters, curbing, storm sewers, parkways or vacant lots within the county, except in the manner and in the receptacles or container as provided herein.

6. *Solid waste receptacles.* All solid waste receptacles shall be maintained in a clean and sanitary condition by the owner or person using the receptacle and the receptacles shall be located only in places as shall be readily accessible for removing and emptying the same, but shall not be placed in a place or position as may constitute a nuisance or obstruction to vehicular or pedestrian traffic.

7. *Outdoor vehicle storage; prohibited acts; exceptions.*

a. It is unlawful for any person, firm or corporation to store on, place on or permit to be stored or placed on, or allowed to remain on any occupied or unoccupied land within the county, a dismantled, partially dismantled, not properly registered, or inoperative motor vehicle, or any parts of a motor vehicle, except in areas where the activity is within the contemplated purposes of duly licensed businesses and are kept in a wholly enclosed garage or structure.

b. Any person, being owner or tenant, may store, permit to be stored or allow to remain upon his premises, any dismantled, partially dismantled or inoperative motor vehicle, or parts thereof, for a period not to exceed one week if the motor vehicle is registered in his name; and provided further that any owner or tenant may, in the event of hardship, secure permission from the county to extend the period of time.

c. As used in this Section, the following terms shall have the following meanings:

(1) *"Dismantled or partially dismantled vehicle"* means any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.

(2) *"Inoperative" or "inoperable motor vehicle"* means any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.

(3) *"Motor vehicle"* means any wheeled vehicle which is self-propelled or intended to be self-propelled.

d. This section shall be construed as being supplementary to any sections of Section 15(1) relating to rubbish, litter, refuse and shall not be construed to permit the parking or placing of dismantled, partially dismantled or inoperable motor vehicles on any public street.

C. *Notice and Complaint.*

1. The Zoning Officer, upon observing any violation of this Section shall issue a notice directed to the owner of record of the property on which the nuisance occurs, or to the occupant or tenant of the property or both. The notice shall describe the violation and shall establish a reasonable time limit for abatement thereof by the owner occupant or tenants, which limit shall be not less than 2 days or more than 30 days after service of the notice. The notice may be served either personally or by registered mail at the owner's or occupant's last known address.

2. In the event the owner or occupant of the property where the nuisance violation of this subchapter exists, has failed, within the prescribed time, to abate the nuisance, then the Zoning Officer shall file a complaint charging violation of this subchapter with the Magistrate Court demanding that the owner of the property, or the occupant thereof, or both, be held to answer to the Court for the violation of this subchapter.

D. *Abatement; Removal of Nuisance.*

1. In the event that a person is convicted of violating this subchapter and still refuses to remove the junk, trash or refuse, the county may enforce this section in any manner consistent with law.

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2. Should the person refuse or fail to pay the assessment, the county shall collect the assessment as provided by law.

E. *Injunctions.* The Zoning Officer, when a nuisance exists as set forth in this Section, may maintain a complaint in the name of the county, perpetually, to enjoin all persons from maintaining or permitting the nuisance and to abate the same.

Sec. 16. - Nonconformities.

A. *Definitions.* Within the Zone Districts established by this Ordinance, there exist: lots, structures, or uses of land or structures that were lawful before this Ordinance was passed or amended, but would be prohibited or restricted under the terms of this Ordinance. It is the intent of this Ordinance to allow these nonconformities to continue until they are removed, but not to encourage their survival. The existence of nonconformity on a property shall not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

B. *Expansion.* A nonconformity shall not be enlarged, expanded, or extended. However, the addition of a lawful use to any portion of a nonconforming building that existed prior to the effective date of this Ordinance shall not be deemed an extension of such nonconforming building.

C. *Abandonment.* Whenever a nonconforming use has been discontinued or abandoned for a period of one year or more, such use shall not thereafter be reestablished, and any future use must be in conformance with the provisions of this Ordinance.

D. *Nonconforming Lot Size.* Any lot of record existing prior to the effective date of this Ordinance, which fails to meet the minimum area requirements, may be developed or improved provided that setback and any other requirements of the lot are in conformance with the provisions of this Ordinance. Unless specifically cited by the Zoning Commission, a Certificate of Nonconformance will not be required for nonconforming lots.

Sec. 17. - Conditional Uses.

A. *Approval Required.* Conditional uses established by this Ordinance shall not be allowed without the review, public hearing, and approval of the Zoning Commission. In conducting such public hearing and in making a decision, the Zoning Commission shall be guided by the criteria set forth in this section, as well as by any other applicable criteria established by this Ordinance or other law.

B. *Application.* Any request for approval of a conditional use shall be submitted to the Zoning Officer with the appropriate filing fee on an application form prescribed by the Zoning Officer. In addition, the applicant shall submit to the Zoning Officer such information as may be reasonably required to determine whether the requested Conditional Use is consistent with the intent and purpose of this Ordinance. At such time, the Zoning Officer shall transmit the application and any supplementary information to the Zoning Commission for review and public hearing.

C. *Notice of Public Hearing.* Notification of the time and place of any public hearing held pursuant to this Section shall be published in a newspaper of general circulation in the County at least 15 days prior to the hearing. In addition, notice of the public hearing shall be mailed by certified mail, return receipt requested, to:

1. The applicant(s);
2. The owner(s), as shown by the records of the County Treasurer, of the land for which the approval is requested, if different from the applicant(s); and
3. The owners, as shown by the records of the County Treasurer, of land within 100 feet, excluding public right-of-way, of the land for which the approval is requested. If any notice is returned undeliverable, the County shall attempt to discover the addressee's most recent address and shall remit the notice by certified mail, return receipt requested.

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D. *Guidelines.* The Zoning Commission shall not approve any conditional use unless satisfactory provision has been made concerning:

1. Accessibility to the property and existing and/or proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe;
2. Off-street parking and loading areas where required, with particular attention to the refuse and service areas;
3. Water and liquid waste facilities, with reference to soil limitations, locations, and public health;
4. The economic, noise, glare, or odor effects of the conditional use on adjoining properties;
5. The general compatibility of the proposed use with actual or prospective permissive use of adjacent properties; and
6. The overall health and safety of the community.

E. *Special Requirements.* The Zoning Commission may impose special requirements as a condition of approval in order to satisfy the above mentioned guidelines. Such special requirements must be made in writing, transmitted to the applicant, and placed on record in the Planning and Zoning Office of the County.

F. *Subsequent Action.* Following notice to the property owner by certified mail, return receipt requested, a conditional use may be revoked (a) by action of the Zoning Commission or the County Board at a public hearing, or (b) through an action brought in a court of competent jurisdiction by the Zoning Officer on behalf of the County, upon proof that the use for which the conditional use was obtained:

1. Has not been conducted in reasonable compliance with any special requirement imposed as a condition for approval of the conditional use;
2. No longer satisfies the defining criteria for the type of conditional use granted; or
3. As actually operated would not satisfy the guideline criteria of this section for the grant of such a conditional use, provided that revocation on this basis requires proof that is clear and convincing.

Sec. 18. - Variances.

A. *Definitions.* The Zoning Commission may approve a variance from the strict application of area, dimension, distance, setback, off-street parking, and off-street loading requirements of this Ordinance in the case of exceptional physical conditions where the strict application of the requirements of this Ordinance would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of a lot or structure.

B. *Application.* Any request for approval of a variance shall be submitted to the Zoning Officer with the appropriate filing fee on an application form prescribed by the Zoning Officer. In addition, the applicant shall submit to the Zoning Officer such information as may be reasonably required to determine whether the requested variance is consistent with the intent and purpose of this Ordinance. At such time, the Zoning Officer shall transmit the application and any supplementary information to the Zoning Commission for review and public hearing.

C. *Notice of Public Hearing.* Notification of the time and place of any public hearing regarding a variance shall be provided as specified in Section 17(C) of this Ordinance.

D. *Required Findings.* The Zoning Commission shall not approve any variance absent findings that:

1. A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by the owners of other properties in the same district under the terms of the Ordinance;

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2. The need for a variance is the result of special conditions and circumstances not caused by the applicant, and the hardship is not self-imposed or self-created;
3. Granting the variance requested will not confer on the applicant any special privilege that is denied by the Ordinance to owners of other lots or structures in the same zone district;
4. The variance granted is the minimum departure from this Ordinance necessary to permit reasonable use of the lot or structure;
5. The variance granted is in harmony with the purpose and intent of this Ordinance, and is not injurious to the area or otherwise detrimental to the public welfare;
6. The variance will not set a precedent that conflicts with the policies of the Sandoval County Comprehensive Plan or other applicable land use plans that adopted by the County; and
7. The applicant would suffer an unnecessary hardship if the variance requested were denied.

Sec. 19. - Amendments.

A. *Legislative Amendments.* Legislative amendments (a) to the text of this Ordinance and/or (b) affecting or creating any Official Zoning Map may be initiated by the County Board, the Zoning Commission, or the Zoning Officer. An owner of land may petition for the initiation of a legislative amendment, but further action in response to such a petition shall be discretionary. Legislative amendments shall be adopted by the County Board in accordance with all state law requirements, including applicable notice provisions.

B. *Review and Recommendation of Zoning Commission.* In addition, legislative amendments first shall be reviewed and considered at a meeting of the Zoning Commission, duly noticed as provided in this section. Following such consideration, the Zoning Commission shall provide its written recommendation to the County Board. The County Board shall consider such recommendation in open meeting, and a majority of the County Board may at that time order publication of the title and a general summary of the proposed amendment. Notwithstanding these requirements, no deficiency (a) in any notice of the Zoning Commission meeting or (b) in any aspect of the Zoning Commission participation in the legislative amendment process shall be grounds for invalidation of any legislative amendment otherwise duly enacted in accordance with state law.

C. *Notice of Zoning Commission Meeting on Legislative Amendment.* The meeting of the Zoning Commission regarding a legislative amendment shall be noticed by publication of the title and a general summary of the proposed amendment in a newspaper of general circulation in the County at least once a week for two consecutive weeks prior to the date of the meeting.

D. *Quasi-Judicial Zone Map Amendments.* All other amendments (hereinafter referred to as "Zone Map Amendments") affecting any Official Zoning Map may be initiated by any owner(s) of land within the jurisdiction of this Ordinance or his/her authorized agent. Such amendment shall be initiated by the submission to the Zoning Officer of a completed application form prescribed by the Zoning Officer together with the appropriate filing fee. In addition, the applicant shall submit to the Zoning Officer such information as may be reasonably required to determine whether the request is consistent with the intent and purpose of this Ordinance, the Sandoval County Comprehensive Plan or other land use plans adopted by the County. At such time, the Zoning Officer shall transmit the application and any supplementary information to the Zoning Commission for review and recommendation. The Zoning Commission shall prepare and transmit a recommendation in writing, to the County Board within seven days after their review of the proposed amendment is completed. If, in the judgment of the Zoning Officer or the Zoning Commission, an applicant substantially amends an existing application for Zone Map Amendment, it will be considered an Amended Application and that applicant shall be required to submit a new application under the terms and conditions of this Ordinance.

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E. *Notice of Meetings and Hearings on Zone Map Amendments.* Notification of the time and place of any Zoning Commission meeting or County Board hearing to consider a Zone Map Amendment shall be provided as specified in Section 17 (C) of this Ordinance.

F. *Zone Map Amendment Guidelines.* The County Board shall not approve a Zone Map Amendment unless satisfactory provision has been made concerning the following, where applicable:

1. Accessibility to property and existing or proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe;
2. Off-street parking and loading areas where required, with particular attention to the refuse and service areas;
3. Water and liquid waste facilities, with reference to soil limitations, locations, and public health;
4. The economic, noise, glare, or odor effects of the conditional amendment on adjoining properties;
5. The general compatibility of the proposed amendment with actual or prospective permissive zoning use of adjacent properties;
6. The overall health and safety of the community; and
7. Conformance to the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County;
8. The applicant has had a preapplication public meeting where he has invited property owners, occupants, and county staff affected by the proposed amendment when the amendment involves:
   (a) Creation of a Special Use (S-P) District;
   (b) Creation of a Master Planned (M-P) District; or
   (c) Change of an urban residential zone to any other classification.

G. *Zone Map Amendment Public Hearing.* Upon receipt of the written recommendations of the Zoning Commission and following the provision of proper Notice as specified in Section 17 (C) of this Ordinance, the County Board shall hold a public hearing to make its decision on an application for a Zone Map Amendment. Any approval of such an Amendment by the County Board shall be by Ordinance. Following such approval a copy of the Ordinance adopting the Amendment to the Official Zone Map shall be filed with the County Clerk and the Planning and Zoning Office of the County. Such Ordinance shall include any special requirements imposed by the County Board.

Sec. 20. - Temporary Use Permits.

In certain situations where unique circumstances warrant, the Zoning Commission may authorize by Temporary Use permit the location of uses in any zone in which they would otherwise not be permitted. In no case shall any use authorized by this section be permitted to exist for a period in excess of 24 months and no renewal of a permit for the same use shall be allowed under this section.

A. *Application.* Any request for a Temporary Use permit shall be submitted with the applicable filing fee to the Zoning Officer on a prescribed application form obtainable from the Zoning Officer. The Zoning Officer shall transmit the application and any supplementary information to the Zoning Commission for their review and consideration. The Zoning Commission shall hold a public hearing in which to make a decision on the application. Notice of the hearing shall be provided as per Section 17(C) of this Ordinance. At their hearing, the Zoning Commission may impose such conditions and limitations as it deems necessary:

1. To ensure that the proper performance standards and conditions are, whenever necessary, imposed upon uses that are, or that reasonably may be expected to become obnoxious,

dangerous, offensive, or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;

2. To preserve the utility, integrity, and character of the zone in which the use will be located, without adversely impacting adjacent zones; and

3. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

B. *Financial Assurance.* The Zoning Commission may require that the applicant post a suitable financial guarantee to assure timely compliance with conditions and limitations, including the time limitation on the proposed use.

C. *Denial.* The Zoning Commission may deny any such application if it finds that the conditions specified in this Section will not be met and/or the proposed application would more appropriately be processed under Section 17 or 19 of this Ordinance.

D. *Alternate Administrative Procedure.* In cases where the proposed use is located on a lot or lots with a total land area of one acre or smaller and the proposed use will not extend beyond 30 days, an alternative administrative procedure is hereby established. Following the submittal of an application and the appropriate filing fee, the Zoning Officer shall review the application for compliance with the conditions specified in this section. Within 15 days of receipt of a complete application, the Zoning Officer shall approve the application, deny the application, or refer the application to the Zoning Commission for review pursuant to this Section.

E. *Violation.* Any noncompliance with any condition of approval of a Temporary Use permit, including the time limitation imposed on the proposed use shall be deemed a violation of this Ordinance as per Section 24 herein.

F. *Sand and Gravel Mining.* Any approvals of applications under this Section for sand and gravel mining uses shall be made subject to all applicable conditions of Section 10(1) of this Ordinance.

Sec. 21. - Special Events Permits.

When residents have a need for a change of land use for a special event, the Zoning Officer may authorize by Special Event Permit the uses in any zone in which they would affect the services of the County during the operation of the event. In no case shall any use authorized by this section be permitted to exist for a period in excess of 30 days and only one renewal in a calendar year shall be allowed under this section. The County shall form a committee from staff. This committee membership shall consist of County Development, Sheriff's Department, Emergency Management Services, Public Works, and Tourism.

A. *Application.* Any application for a Special Event permit shall be submitted with the applicable filing fee to the Zoning Officer on a prescribed application form obtainable from the Zoning Officer. The Zoning Officer must receive application and any supplementary information for Special Event permits at least 30 days prior to the event. The Zoning Officer shall transmit the application and supplementary information to the Committee for their review and consideration. At their meeting the Committee shall inform the Zoning Officer of the need to impose such conditions and limitations as it deems necessary:

1. To ensure that the proper safety standards and conditions are, whenever necessary, imposed upon the events that are, or that reasonably may be expected to become obnoxious, dangerous, offensive, or injurious to the health, safety and welfare of the public, or a portion thereof, by reason of the activity of this event.

2. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

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3. That the resources of the Sandoval County Tourism and Visitors bureau be made available to the event if needed.

4. That there will be appropriate planning for public safety agencies by this event.

B. *Financial Assurance.* The Committee may require that the applicant post a suitable financial guarantee for County services as well as a liability policy. The applicant will be responsible for 105% of any expenses incurred by Sandoval County as part of this event, to include but not be limited to: Road preparations, Law Enforcement requirements, Fire and Emergency Medical and Management Service standby. The expense fee will be required to be paid to Sandoval County in two phases, ½ of the estimated costs prior to the event with the balance due within 30 days after being invoice for the event. If the Committee determines that liability insurance is required, Sandoval County shall also be named as an insured party on the policy.

C. *Denial.* The Zoning Officer may deny any such application if he/she finds that the conditions specified in this Section will not be met and/or the proposed applications would more appropriately be processed under Sections 17 or 20 of this Ordinance.

D. *Administrative Relief.* At the discretion of the County Commission, when it is in the best interest of the County, the Commission may defer or waive any or all of the fee requirements of this section.

E. *Violation.* Any noncompliance with any condition of approval of a Special Event Permit, including the time limitation imposed on the proposed use shall be deemed a violation of this Ordinance as per Section 24 herein.

Sec. 22. - Appeals.

A. *Right of Appeal.* Anyone aggrieved by a decision of the Zoning Officer or the Zoning Commission in carrying out the provision of this Ordinance may appeal such decision as specified in Table A below. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by evidence in the matter.

Type of Application	Zoning Officer	Zoning Commission	County Board
Temporary Use Permit	Recommends	Decision (Hearing)	Considers Appeal (Record Hearing)
Temporary Use Permit (Administrative Procedure)	Decision	Considers Appeal (Hearing)	Considers Appeal (Record Hearing)
Variance	Recommends	Decision (Hearing)	Considers Appeal (Record Hearing)
Conditional Use	Recommends	Decision (Hearing)	Considers Appeal (Record Hearing)
Special Event	Decision	Considers Appeal	Considers Appeal

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Permit		(Hearing)	(Record Hearing)
Beneficial Use Determinations	Recommends		Decision (Hearing)
Interpretation/ Administrative Action	Decision	Considers Appeal (Hearing)	Considers Appeal (Record Hearing)

B. *Application.* Any appeal following a decision of the Zoning Officer or the Zoning Commission shall be made in writing on prescribed forms obtainable from the Zoning Officer upon payment of the applicable filing fee. Any appeal not submitted within 30 days after the decision that is the subject of the appeal shall not be considered.

C. *Public Hearing.* The decision on an appeal shall be made by the appropriate body as specified in Table A following a public hearing. Within 60 days of the date of the filing of an appeal the Zoning Officer shall schedule a date for the public hearing. At that time, person(s) filing the appeal shall be notified by certified mail, return receipt requested, of the time and place of the public hearing. The date of the appeal hearing will be scheduled by the Zoning Officer based in part upon the quantity and complexity of other matters pending before the body that is to consider the appeal. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the County at least 15 days prior to the hearing. At the same time, notice shall be provided via certified mail, return receipt requested, to the original applicant (if he/she is not the appellant) and the owners of property adjacent to the property that is the subject of the appeal.

D. *Review on Record.* Any review of a decision of the Zoning Commission by the County Board shall be confined to the record of the proceedings, which shall include:

1. All materials, pleading, memoranda, stipulations, and motions submitted by any party to the proceeding and received or considered by the Zoning Officer or Zoning Commission as evidence;
2. All materials submitted to the Zoning Officer with respect to any application(s);
3. The minutes and/or tape recording of the public hearing(s) held by the Zoning Commission;
4. The findings of fact and conclusions of law entered by the Zoning Commission following their decision; and
5. Argument confined to the record by the parties or their legal representatives at the time of review before the County Board.

E. *Stay of Proceedings.* An appeal shall stay all proceedings in the action unless the Zoning Officer or Zoning Commission certifies that a stay will cause imminent peril to life or property. Upon such certification, the proceedings shall not be stayed except by order of district court. Approval of a Building Permit or any other required approval required from the Zoning Officer in order to accomplish a development approved under Sections 17, 18, or 20 of this Ordinance shall not be granted until any appeal is decided or the time for filing such an appeal has expired.

F. *Decision.* At the public hearing, the appellate body (either the County Board or Zoning Commission, whichever is applicable) may reverse, change, or affirm the decision appealed. A majority vote of the members of the County Board is required to reverse or change a decision made by the Zoning Commission.

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Sec. 22(1). - Beneficial Use Determinations.

In the event that a property owner in the County believes that all beneficial use of his property has been denied, or "taken" by the application of this Ordinance, then he/she may appeal to the County Board. Such appeal shall be accomplished by submitting an application for a beneficial use determination under the provisions of Section 22 of this Ordinance. The following procedures provided in this Section shall be used prior to seeking relief from the courts in order that any denial of beneficial use of property may be remedied through a non-judicial forum:

A. *Purpose.* The purpose and intent of this Ordinance is that every property owner in the County should enjoy a beneficial use of his/her property. A beneficial use determination is a process by which the County evaluates the allegation that there is no beneficial use, and can provide relief from the regulations by granting additional development potential to permit a beneficial use of the property. It is also the intent of this Section that such relief not increase the potential for damaging the health, safety, or welfare of future users of the property or neighbors that might reasonably be anticipated if the property owner were permitted to build.

B. *Notice and Public Hearing.* The notice requirements and public hearing procedures for a beneficial use determination shall be the same as that provided for appeals under Section 22 of this Ordinance.

C. *Additional Information Required.* The nature of this appeal requires detailed financial information on the property that is not required or desired in normal appeal applications. The following data shall accompany all applications for a beneficial use appeal:

1. Documentation of the date of purchase and the purchase price of the property.
2. A description of the physical features present on the property, the property's total acreage, the present use of the property, and the use of the property at the time of the adoption of this Ordinance.
3. A description of the specific portions of the regulations that are alleged to result in an elimination of all beneficial use of the property together with all appraisals, studies, any other supporting evidence and any actions taken by the County related to the property.
4. A description of the use that, in the belief of the property owner, represents the minimum beneficial use of the property and all documentation, studies, and other evidence supporting that position.
5. Documentation that the property has been listed for sale for at least six months after the adoption of this Ordinance, and originals or copies of all bids, offers-to-purchase, and other correspondence regarding the sale of such property.

D. *Deprivation Standards.* In determining if a property owner has been deprived of beneficial use of his/her property, the County Board shall take into account the following factors:

1. The value of the property prior to adoption of this Ordinance that caused the property owner to apply for relief shall be compared to the value of the property with the regulations as applied. A mere diminution in value does not deprive the property owner of a beneficial use; the diminution must be so drastic that it effectively deprives the property owner of any significant use or enjoyment of the property.
2. A use common to the County and/or the area of the subject site, although it may not involve further development of the land, is considered a beneficial use. Attention shall also be given to land uses that are considered to be the lowest intensity in the County or adjoining areas but that still provided for occupation and living by the property owner. These land uses shall be considered beneficial uses.
3. Whether the property is being singled out for different treatment than similarly situated properties under this Ordinance.

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4. A minimum beneficial use of the land should be one that does not have any governmental subsidy attached to the use or long-term safe occupation of the property. If such a subsidy exists, then it should be reflected in considering minimum beneficial use on a valuation basis. The public costs of a subsidy should be considered as a payment to the property owner for the restriction on the property if there is an annual subsidy that enhances the economic return of the existing use to the property owner.

5. The extent to which the regulations protect users or neighbors from threats to health or safety shall be fully accounted for. A use that seriously threatens the health of future residents or neighbors is not a beneficial use.

6. Expectations shall, in general, not be considered. Only expectations backed by investments made prior to the adoption of the restrictions in question and that are substantially above the cost of the land and normal planning investments, shall be considered.

7. In no case shall a use that is nuisance per se, or a use that in that particular location constitutes a nuisance, be granted relief. Such uses are not legal uses of the land and thus no taking of beneficial use of the land can occur.

E. *Granting Relief.* If the County Board finds that a property owner has been denied all beneficial use of his property, than the following relief may be granted:

1. The property owner shall be given the minimum increase in development intensity or other possible concessions from this Ordinance in order to permit a beneficial use of the land. The highest use, or even an average reasonable expectation, is not required or intended as the appropriate remedy. The following guidelines shall be used for determining the minimum beneficial use of property and, therefore, the amount of relief to be granted a property owner.

   a. The limited development potential, given the natural condition of the property, shall not be attributed to the regulations applied to the property. If the property is such that it cannot safely accommodate development with normal grading and clearing practices, this fact shall be taken into account in identifying the best site for development that minimizes costs for development.

   b. The potential for damage to either residents or property shall be assessed in determining a beneficial use. Conditions shall be placed on sites where damage from building or hazardous conditions is likely. The conditions may include location restrictions, size limitation, construction practices, and shall require a building to be built so it will not be damages.

2. The County Board shall make its decision by resolution. Based on the findings of the public hearing, the County Board may also direct that public hearings be held to amend this Ordinance.

Sec. 23. - Filing Fees.

A. *Applications.* Any applications required by this Ordinance shall be filed with the required filing fee on prescribed forms obtainable from the Zoning Officer. Such fees shall not be required where the County or any official thereof is the moving party.

B. *Fees.* Fees will be established by Resolution of the County Board and will be subject to periodic review and update.

C. *Refunds.* If an application is withdrawn before required public notification is published, the filing fee shall be refunded to the person making the application. If an application is withdrawn after such notification is published, the filing fee shall not be refunded.

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Sec. 24. - Penalties.

[A.] The general penalty in Code section 1-3 shall apply to violations of this chapter.

[B.] The County Board finds there is a significant risk to the health, safety and welfare of the citizens of Sandoval County from unregulated activities, including violations of this Ordinance. The County Board further finds that violations of this Ordinance are a nuisance that must be abated by the assessment of fines. The county board finds that violations of this chapter constitute a public nuisance and may be abated pursuant to order of the appropriate court.

[C.] The violation citation may be issued to the owner of the land where the violation is alleged to exist, the occupant of the land if different from the owner or to both in the discretion of the Zoning Officer. When possible, the citation shall contain the address of the property on which the violation is alleged to exist, the legal description of the property or both. The citation shall be hand-delivered to the alleged owner or violator if possible, or may be mailed to the alleged violator or owner or posted upon the property. Any of the previously listed forms of notice shall constitute sufficient service of notice under the law.

Sec. 25. - Severability.

The provisions of this Ordinance shall be deemed to be severable, and should any section, paragraph or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Sec. 26. - Repeal of Previous Ordinances.

The Sandoval County Comprehensive Zoning Ordinance of November 30, 2007, No. 07-11-01.8B and all amendments thereto, with the exception of Legislative and Quasi-Judicial Zone Map Amendments in effect at the time of adoption of this Ordinance, are hereby repealed.

[Sec. 27.] - Official Zoning Map Adopted.

The Board of County Commissioners hereby adopts an Official Zoning Map showing the district designations and boundaries of the territory to be zoned in the Placitas area.

[Sec. 28.] - Effective Date.

This Ordinance shall become effective on the 20th day of December, 2010, following publication by title and general summary.

ARTICLE II. - SIGNS

Sec. [29] 1. - Title.

Sec. [30] 2. - Purpose and Intent.

Sec. [31] 3. - Interpretation of Sandoval County Sign Regulations.

Sec. [32] 4. - Jurisdiction.

Sec. [33] 5. - Definitions.

Sec. [34] 6. - General Restrictions.

Sec. [35] 7. - Prohibited Signs.

Sec. [36] 8. - Exempt Signs.

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Sec. [37] 9. - Corridor Standards.

Sec. [38] 10. - Billboards.

Sec. [39] 11. - Nonconforming Signs.

Sec. [40] 12. - Signs Authorized Without Permits.

Sec. [41] 13. - Sign Permits and Applications.

Sec. [42] 14. - Permitted Use.

Sec. [43] 15. - Variances.

Sec. [44] 16. - Fee Schedule.

Sec. [45] 17. - Appeals.

Sec. [46] 19. - Severability.

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Sec. [29] 1. - Title.

These regulations shall be known as the "Sign Ordinance of Sandoval County New Mexico" and shall be referred to herein as "this article."

(Ord. No. 03-09-04.12A, § 1, 9-4-2003)

Sec. [30] 2. - Purpose and Intent.

The purpose of this ordinance is to permit signs that will not, by their size, location, or construction endanger the public health and safety of individuals, or confuse, mislead, or obstruct the vision necessary for traffic safety. Furthermore, it is the purpose of this Ordinance to maintain property values and to create a more aesthetically pleasing community, through the preservation of the natural beauty and environment of Sandoval County, by preventing the over-concentration, improper placement, excessive lighting and density of signs, but keeping in mind the importance of signage to the business community, and the vital element it serves in the free enterprise system. In addition, these regulations shall be supplemental to the regulations promulgated by the New Mexico Highway Beautification Act [NMSA 1978, §§ 67-12-1 to 67-12-14] concerning the regulation of outdoor advertising along public highways.

(Ord. No. 03-09-04.12A, § 2, 9-4-2003)

Sec. [31] 3. - Interpretation of Sandoval County Sign Regulations.

A. Where there is a conflict between provisions of this Ordinance and provisions of other regulations of Sandoval County, the provisions of this Ordinance shall apply.

B. If any court of competent jurisdiction determines any provision of this Ordinance to be invalid, such determination shall not affect any other provision of this Ordinance not specifically included in the court's judgment.

C. If any court of competent jurisdiction determines any provision of this Ordinance to be invalid as applied to any particular sign, such determination shall not affect the application of such provision to any other sign not specifically included in the court's judgment.

(Ord. No. 03-09-04.12A, § 3, 9-4-2003)

Sec. [32] 4. - Jurisdiction.

This chapter shall apply to all land within the County that is not within the jurisdiction of an incorporated municipality or Indian reservation or any municipal-county extraterritorial authority, and is not held in trust or ownership by the Federal Government or the State of New Mexico.

(Ord. No. 03-09-04.12A, § 4, 9-4-2003)

Sec. [33] 5. - Definitions.

A. *Definitions.* As a used in this ordinance, the following definitions apply:

"*Area of Sign*" shall mean the entire area within a single continuous perimeter composed of parallelograms, circles, ellipses, trapezoids and triangles, or a combination of two of the above or regular portions thereof, per sign panel which enclose the extreme limits of the advertising message, announcement, declarations, display, illustration, insignia, surface or space of a similar nature; together with any frame or other material, color or condition which forms an integral part of the display and is used to differentiate such sign from the wall or background against which it is displayed. The necessary supports or uprights on which such sign is placed are excluded from the sign area. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that only one face of a double-faced sign shall be considered in determining the sign area when both faces are parallel and the distance between faces does not exceed two feet.

Further, where a sign consists only of individual letters, numerals, symbols, or other similar components and is painted on or attached flat against the wall of a building, and where such individual components are without an integrated background definition and are not within a circumscribed framed area, the total area of the sign shall be the sum of the areas of the squares or rectangles surrounding each individual component.

Where statuary, either real or simulated, is used as a sign, the area of said sign shall be the three vertical sides of the smallest right rectangle enclosing the figure that is most visible from the public right-of-way.

"*Attached Signs*" shall mean any sign which is fastened, attached, connected or supported in while or in part by an attached building or structure other than a sign structure which is supported wholly by the ground.

"Banner" shall mean a temporary sign of fabric, plastic, paper, or other light pliable material, not enclosed in a rigid frame, but mounted so as to allow movement of the sign by atmospheric movement.

"*Billboard*" shall mean an off-premise sign which directs the attention of the public, the business or activity conducted or product or service sold or offered at a location not on the same premises where such business sign is located.

"Building Line" shall mean a line established by Ordinance beyond which no building may extend. A building line may be a property line.

"Commission" shall mean the Planning Commission of Sandoval County.

"*Construction Renovation Sign*" [shall mean] any temporary sign erected on the premises where construction/renovation is taking place and indicating the names of the architects, engineers, landscape architects, financial institutions, contractors, or similar artisans, and the owners, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project. Such sign may remain 15 days after completion of the project.

"*Customary Maintenance*" [shall mean] any activity performed on an advertising display for the purpose of actively maintaining the display in its existing approved physical configuration and size dimensions at the specific location approved on the permit application for a legally placed display, for the duration of its normal life.

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"*Direct Lighting*" shall mean a sign designed to provide artificial light through exposed lighting on the sign face, such as neon.

"*Directional Sign*" shall mean a sign of non-commercial nature which indicates the location of public or educational institutions, historical areas of structures, or public parks; or which indicates access to parking and loading areas or indicates traffic circulation patterns.

"*Directory Sign*" shall mean a sign designed to show the relative locations of the several commercial activities within a shopping center or other multi-tenant development.

"*Double-faced Sign*" means any two adjacent signs on separate structures with both faces oriented in the same direction. A double-faced sign maybe referred to as a side-by-side sign.

"*Fascia*" shall mean a parapet-type wall used as part of the fascia of a flat roofed building and projecting not more than six feet from the building face immediately adjacent thereto. Such a wall shall enclose at least three sides of the projecting flat roof and return to a parapet wall or the building.

"*Flashing Sign*" shall mean an illuminated sign which exhibits changing light or color effect by blinking or by any other means so as to provide inconsistent illumination.

"*Government Sign*" [shall mean] any sign erected by any city, county, state, or federal agency or its designee, setting forth information pursuant to law.

"*Ground Sign*" and/or "*Pole Sign*" shall mean any sign which is supported by structures or supports in or upon the ground and independent of support of any building.

"*Illegal Sign*" shall be defined as all signs except the following:

1. Allowed by this Ordinance and not requiring a permit.
2. Allowed by this Ordinance with permit and carrying a valid permit.
3. Not allowed by this Ordinance but legalized by variance and proper permit.
4. Allowed by this Ordinance, subject to a Use Permit or a Special Use Permit, providing the permit has been granted and a proper permit is in force.
5. Has been found to be a valid nonconforming sign.

"*Internal Lighting*" shall mean a source of illumination entirely within the sign which makes the sign content visible at night by means of light being transmitted through a translucent material, but wherein the source of the illumination is not visible.

"*Legal Notices*" [shall mean] any sign required by law or pursuant to a court order.

"*Marquee*" shall mean a permanent roof-like structure extending from part or all of the building facade over a public right-of-way and constructed of some durable material such as metal, glass, or plastic.

"*Monument Style*" sign shall mean a sign in which the width of the sign base shall be solid and equal to the sign fascia, and shall be in architectural conformity with the primary structure. Billboards shall be held to a different architectural standard outlined in this Ordinance.

"*Nonconforming Sign*" shall mean any sign which is not allowed under this Ordinance, but which, when first constructed, was legally allowed by Sandoval County or the political subdivision then having the control and regulation over construction of signs, and was in continuous use. To retain conforming status, such signs shall be determined to be in current and continuous use, and shall be subject to the nonconforming sign provisions of this Ordinance.

"*Permanent Sign*" shall mean any sign which is intended to be and is so constructed as to be of lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear) and position, provided the sign is listed as a permanent sign in this Ordinance.

"*Political Sign*" [shall mean] a temporary sign pertaining to any national, state, or local election.

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"*Portable Sign*" shall mean a freestanding sign not permanently affixed; to the ground or structure on the premises it occupies.

"*Premises*" shall mean an area under a single ownership or a single lease, no part of which is separated from the other by any land under a different ownership or lease agreement.

"*Roofline*" shall mean the highest point of the main roof structure, not including cupolas, pylons, projections or minor raised portions of the roof.

"*Sign*" shall mean any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or governmental agency, or of any civic, charitable, religious, patriotic, fraternal, or similar organization, and further not including any item of merchandise normally displayed within a show window of a merchant.

The term "sign" shall mean and include any display of any letter, numeral, figure, emblem, picture, outline, character, spectacle delineation, announcement or anything in part or in combination by any means whereby the same are made visible to the eye and for the purpose of attracting attention outdoors to make anything known, whether such display be made on, attached to or as a part of any other structure, surface or thing; including but not limited to, the ground or any rock, tree, or other natural object, when display is visible beyond the boundaries of the lot or parcel of property on or over which the same is made.

"*Sign Face*" [shall mean] the net geographic area enclosed by the sign, including all elements such as borders or frames, perforated or solid background, but not including the projected area of structural supports for ground signs unless it is designed in such a manner as to form an integral part of the background of the display.

"*Sign Height*" shall mean the vertical distance measured from the adjacent street grade or upper surface of the curb, whichever permits the greatest height, to the highest point of said sign, excluding embellishments.

"*Sign Structure*" shall mean the supports, uprights, braces, and framework of the sign.

"*Temporary Signs*" shall mean any sign, banner, pennant, balance or advertising display constructed of cloth, canvass, light fabric, cardboard, wallboard or other like materials, with or without frames, intended to be displayed for a short period of time only, not to exceed a period of 30 days.

"*Vehicle Sign*" shall mean signs mounted upon, painted upon, or otherwise erected on a trailer, truck, automobile or other vehicle so parked or placed so that the signs thereon are visible from a public street or right-of-way.

"*Vision Clearance*" [shall mean,] at all road or street intersections, no obstructions to view shall be placed or maintained between three feet and eight feet above the roadway level in a triangular space at the road or street corner on a corner lot. Such triangle space shall be bounded by the corner property lines and a diagonal line connecting points that are 25 feet in distance from the property line intersection.

"*V-type Sign*" [shall] mean two signs in the shape of the letter "v" when viewed from above with their faces oriented in opposite directions with more than a 45 degree angle of separation.

"*Wall-Mounted*" shall mean a sign mounted flat against, or painted on the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of said wall. No wall-mounted sign shall be located above the plate line or project more than 15 inches from the wall.

(Ord. No. 03-09-04.12A, § 5, 9-4-2003)

Sec. [34] 6. - General Restrictions.

No sign may be placed in violation of Section 131 of the title 23 of the United States Code.

A. *Setbacks.* 10 ft. from edge of right-of-way including overhangs.

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B. *Size.* The maximum sign face shall not exceed 50 sq. ft., except for billboards as allowed in this ordinance.

C. *Sign height.* The maximum sign height shall not exceed 17' feet, or as otherwise allowed in this ordinance.

D. *Number.* One freestanding and one wall mounted per nonresidential development or premise, except as allowed in this Ordinance.

E. *Maintenance.*

1. All signs shall be kept in good repair, both structurally and in appearance and maintained in good and safe structural condition. All braces, bolts, clips, fastenings, and supporting frame shall be securely affixed to the support structure or wall and shall be free from insect infestation, rot, or other deterioration. The general area, including vicinity of any sign must be kept free and clear of materials (i.e. weeds, debris, trash and other refuse.)

2. If the message portion of a sign is not maintained or if it is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within four months of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to alter the prohibition on the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.

3. No sign shall be illuminated by flashing, intermittent or moving light or lights or be lighted in any way unless the lighting is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the maintraveled way of the interstate or primary roadway. No sign shall be placed or maintained if visible from any highway and displaying any red or blinking intermittent light likely to be mistaken for a warning or danger signal. Any sign, the illumination of which is not constant in intensity when in use except illuminated signs which indicate the date, time or temperature, or other public service information shall not be considered a flashing sign. No display may include any illumination which is in motion or appears to be less than four seconds, nor may the interval between messages be less than one second.

F. *Maintenance and Removal.*

1. Customary Maintenance is permitted and includes the following activities:

   a. The changing of advertising message, including temporary alteration of the outside dimensions of a display in the form of add-ons or cut-outs as incident to a change in copy.

   b. The routine replacement of border and trim.

2. Customary maintenance does not include the following (all of which acts shall be considered as 'placing' of a new advertising display):

   a. Raising the height of the display from ground level.

   b. Relocation of all or any portion of a display.

   c. Adding a back-up panel facing to a single panel and display.

   d. Increasing any dimension of any panel facing.

   e. Any repair or refurbishing of a display that exceeds 50% of the value of the display in its preexisting state as determined by acceptable appraisal methods shall be considered as an act of placing a new advertising display and not an act of customary maintenance. It shall be the responsibility of the permittee to provide the County Planning Department with adequate proof of the cost of such work in the form of an itemized statement of repair cost including direct and indirect costs, whenever such

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information is requested by the department. Detailed records from which the itemized statement is compiled shall be retained by the permittee for a period of four years from the date that the repair work is completed and shall be available for verification by the Planning and Zoning Department.

3. Signs that have been destroyed or have fallen shall be repaired, reconstructed or removed of all debris and must be completed prior to the 30th day after receipt of written notice from the County. Upon a showing of good cause, the County may extend the 30-day time period.

4. Unsafe signs. If, in the opinion of the Planner and Zoning Director or designee, any sign becomes unsecured, unsafe, or subject to fall, the County, upon supported findings shall give written notice of the sign's condition to the person responsible for the sign (owner or lessee). The person so notified shall correct the unsafe condition of the sign within (30) days in conformance with the provisions in this section.

G. On corner lots nonresidential uses may have the maximum allowable number and square footage of on-premise signs as permitted for each street frontage. Sign maximum allowances, however, are not transferable either in whole or in part from one street frontage to another.

H. When a sign is erected at the street corner of a parcel, or at a building front corner, and is situated at an angle so as to be visible from both streets or both frontages, said sign and number of signs shall not exceed the maximum area and number allowed for wall signs.

I. A free standing sign may consist of more than one sign panel, provided all such sign panels are attached to one common integrated sign structure. The total area of all such panels shall not exceed the maximum allowable sign area specified for a free standing sign on said parcel. Where a sign message consists of separate and individual letters, modules, or symbols, each portion of said sign message shall not be considered as a one-sign panel. In such cases, a continuous perimeter completely surrounding the sign message shall be used to determine its sign area.

J. Shingle signs used to identify a business whose front is under a roof overhang, covered walkway or covered porch, may be placed either parallel to the street, and shall be adjacent to the business which it identifies. The sign shall be suspended from a roof overhang, covered walkway or covered porch. No part of a suspended sign shall extend beyond the edge of the overhang. Signs placed parallel to the street may be attached to the fascia, provided no part of the sign extends above or below the fascia. A minimum clearance of eight (8) feet shall be maintained between the bottom of the sign and the nearest grade or sidewalk.

K. The following location requirements shall apply to all signs:

1. No sign or structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit or standpipe.

2. No sign shall obstruct traffic by obstructing the vision of motorists.

3. No person, firm or corporation shall erect or cause to be erected any sign which projects over any public sidewalk, street, alley or public place.

4. No sign shall be erected or maintained in the public right-of-way except as provided hereafter in this Ordinance.

(Ord. No. 03-09-04.12A, § 6, 9-4-2003)

Sec. [35] 7. - Prohibited Signs.

A. No sign shall be erected or maintained within "Vision Clearance."

B. No sign shall prevent drivers of a vehicle from having a clear and obstructed view of preexisting official signs and approaching or merging traffic.

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C. Signs applied to trees, rocks, or other natural objects.

D. Signs which interfere with the effectiveness of any official traffic control devices.

E. No sign shall be erected or maintained within County public right-of-way, public utility easements or private roadway easements.

F. "A" frames and portable signs of more than four square feet in area.

G. Permanent banners, pennants, fixed balloons and flags; but excluding temporary banners, pennants, fixed balloons and flags that are used for specific sales events or promotional programs, not to exceed 15 days per year.

H. Vehicle signs, except for advertising or identification markings which are painted on or permanently or magnetically attached to a business or commercial vehicle. Vehicle with vehicle signs as authorized by this Ordinance shall not be primarily or consistently parked in a fixed location for display of sign message.

I. Signs identifying businesses conducted out of a residence (home occupation).

(Ord. No. 03-09-04.12A, § 7, 9-4-2003)

Sec. [36] 8. - Exempt Signs.

The following are signs that are Permitted Uses under the Ordinances of Sandoval County and do not require a sign permit:

A. Signs not exceeding one sq. ft. in area and bearing only property numbers, post box numbers, or names of occupants on premises.

[B.]C. Legal Notices, identification, information or directional signs erected by the government bodies.

[C.]D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

[D.]E. Signs directing and guiding traffic and parking on private property, but not bearing advertising matter.

[E.]F. Construction Renovation Signs.

[F.]G. Government Signs.

[G.]H. Real Estate Signs (not to exceed 10 sq. ft., no more than one per property for sale).

[H.]I. Legal or Public Notices.

[I.]J. Political Signs must be removed no more than 30 days after the primary and or general election.)

[J.]K. Tablets, grave markers, headstones, statuary or remembrances of persons or events non-commercial in nature.

[K.]L. Temporary decorations or displays (banners) celebrating the occasion of traditionally accepted patriotic, religious or local holidays or events.

[L.]M. The erection, construction, and maintenance of official traffic, fire and police signs, signals and devices and markings of the State of New Mexico and Sandoval County or other authorized public agency, or the posting of notices as required by law.

[M.]N. Non-illuminated directional or informational signs of public or quasi-public nature which do not include directions to commercial establishments, and which do not exceed six square feet.

(Ord. No. 03-09-04.12A, § 8, 9-4-2003)

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Sec. [37] 9. - Corridor Standards.

The following standards shall apply to all signs erected within 1,000 ft of Interstate 25, US Highway 550 and State Roads 4, 14, 22, 96, 126, 165, 197, 290, 313, 314, 315, 485, 528, and 537.

1. Such signs shall be of the monument type, or consist of individually mounted letters on entry perimeter walls.
2. All free standing and wall signs shall be internally lighted. No indirect lighting of these signs shall be allowed.
3. Residential Districts.
   a. Permanent identification signs for Master Planned Communities or subdivisions of at least 20 lots are subject to the following:
      i. A maximum of two wall mounted signs are permitted for each entry. The maximum area of such sign shall be forty (40) square feet and the maximum height shall be six feet.
      ii. The sign(s) shall be located in a landscaped area of at least two square feet per each one square foot of sign area.
4. For multifamily uses, identification signs for apartments and condominium complexes shall be allowed, subject to the following:
   a. A free standing identification sign area, not to exceed forty (40) square feet in total area, and not to exceed ten feet in width or six feet in height. Such signs shall be located at least five feet from any property line.
   b. In addition to [subsection 4.a. of this section] (a) above, a wall-mounted identification sign shall be permitted, not to exceed forty (40) square feet in area, and not extend above the roofline.
   c. Free standing signs shall be located in a landscaped area of at least two square feet for each one square foot of sign area.
5. Nonresidential Districts.
   a. For all commercial and industrial uses, the following identification signs shall be permitted:
      i. Each free standing building shall be allowed one wall-mounted identification signs, with a total combined sign area not to exceed a maximum of 60 square feet in area, or four percent of the building facade whichever is greater, not to extend above the roofline.
      ii. One free standing identification sign, not to exceed a maximum of 100 square feet in area, and not to exceed a maximum of 17 feet in height. Two free standing identification signs shall be permitted on properties whose frontage exists on two arterial streets. Such free standing identification signs shall be set back at least five feet from any property line with the leading edge.
      iii. For free standing signs, a landscaped area shall be provided at the base of the free standing sign, with said landscaped area to be a minimum of four square feet for each one square foot of sign area.
   b. In addition to the above provisions, an identification directory sign shall be permitted, where appropriate, not to exceed 12 square feet in area and six feet in height. Such directory sign shall be located behind the required front yard setback.
   c. Not withstanding the provisions above, no more than two temporary signs may be painted on or otherwise displayed from the surface of any window, for a period not to exceed 30 days. The area of such signs shall not exceed twenty-five (25) percent of the area of the

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window on which displayed. The area of said signs shall be deducted from the total allowed sign area.

6. Special Purpose Signs.

   a. Shopping centers shall be subject to the following:

      i. One free standing identification sign per street frontage.

      ii. The total sign area of one face of a free standing identification sign shall not exceed one-hundred and fifty (150) square feet, and shall not exceed a height of 24 feet.

      iii. Such free standing identification sign shall identify the center only, and shall not be included as part of the total identification signage permitted individual tenants within the commercial center.

      iv. For said free standing sign, a landscaped area shall be provided, on-premise at the street frontage at the base of the sign, which shall consist of four square feet of landscaped area for each one square foot of sign area.

      v. Within a commercial center, all wall, or fascia-mounted signs for individual tenants shall be uniform in terms of colors, shapes and maximum vertical dimensions with all other such signs in the center. Each tenant shall be allowed one wall mounted identification signs, not to exceed a maximum of 24 square feet or four percent of the building facade, whichever is greater, not to extend above the roofline.

   b. Sale, lease or rent signs shall be non-illuminated and not exceed six square feet in area and five feet in height. On properties with one or more acres said sign area shall be increased to thirty-two (32) square feet, and the maximum height allowable shall be eight (8) feet. Such signs shall pertain only to the land or building upon which such sign is displayed. Such signs shall not require a sign permit.

   c. One construction sign located along a street frontage and denoting architects, engineers, contractors, and other related subjects shall be permitted only until an occupancy permit for the referenced project is obtained. Said sign shall not exceed 48 square feet and shall not exceed six feet in height.

(Ord. No. 03-09-04.12A, § 9, 9-4-2003)

Sec. [38] 10. - Billboards.

Commission review. The Planning Commission shall have the responsibility of issuing sign permits for all billboards, subject to the following requirements:

A. Billboards may be located along lands within Sandoval County jurisdiction, on Interstate 25 and Hwy 550 within 200 ft. of those rights-of-way.

B. No two signs on the same side of the right-of-way shall be spaced less than 2,000 ft. apart.

C. Billboards shall not exceed 35' in elevation above the grade level of the roadway which they serve or 17' above the ground level to which it is placed, whichever is lower.

D. Two billboard faces back to back, or v-type with no more than a 45 degree angle of separation are allowed. Vertical stacking of billboards is prohibited.

E. Billboards shall be monument in type, and made of a masonry material.

F. The architecture of the monument sign shall be harmonious with the surrounding landscape of the area to which it is located.

G. Billboards as attached signs are prohibited.

H. No billboard may exceed 300 sq. ft. of total "sign area".

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[I.]H. May not be illuminated by any means.

[J.]I. A maximum of two faces, parallel back-to-back is permitted, provided, both faces are of the same size and attached to the same support structure.

[K.]J. Billboards shall be set back a minimum of 30 feet from the property line fronting along Highways and Interstates.

(Ord. No. 03-09-04.12A, § 10, 9-4-2003)

Sec. [39] 11. - Nonconforming Signs.

A. Any nonconforming sign, as defined in this Ordinance, may be continued in use, and reasonable repair and maintenance shall be made to same.

B. If it is damaged or destroyed to the extent of more than 50% of its assessed value, the sign must be removed.

C. If a nonconforming sign is damaged or vandalized (less than 50% of value), such sign must be restored in a like manner within 60 days, or it shall lose its nonconforming status and it shall be removed at the owner's expense; or the nonconforming signage shall be replaced with sign(s) that are in compliance with this Ordinance.

(Ord. No. 03-09-04.12A, § 11, 9-4-2003)

Sec. [40] 12. - Signs Authorized Without Permits.

A. Permits shall not be required for the following signs or situations, provided, however, that such signs shall be subject to any and all applicable provisions of this Ordinance.

1. Name plates for residential use less than four square feet or less in sign area not otherwise prohibited by this chapter.
2. Any signs four square feet or less in sign area not otherwise prohibited by this chapter.
3. Standard sign maintenance other than the changing of sign wording or composition (except changeable copy signs).
4. Sign relocation as required by the County.
5. Signs erected on site as identification of temporary sales areas.

Sec. [41] 13. - Sign Permits and Applications.

A. *Permit Required.* A permit shall be applied for and received from the County before erecting, placing, rebuilding, reconstructing, or moving any sign.

B. *Application.* An application for a sign permit shall be obtained by the Planning and Zoning Director.

C. *Submittals Required.* For a sign permit including the following:

1. A sealed line drawing showing the design, height and dimensions of the sign;
2. A site plan or line drawing drafted to scale, showing the proposed location of the sign on the site, and all easements;
3. Said plan or drawing shall include the scale, design and location of all other existing signs maintained on the premises on which the applicant's sign is proposed.

D. *Restrictions.* Sign permit applications for free standing signs and billboards exceeding 20 feet in height measured from ground level, shall be accompanied by an engineer's design drawing showing

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the appropriate calculations. Said drawing shall be stamped by an engineer certified in the State of New Mexico.

E. *Review.* The submittals and application shall be reviewed for compliance with these sign regulations by the Planning and Zoning Director or designee pursuant to procedures set forth in this Ordinance and shall be submitted with the preliminary development plan, if applicable.

(Ord. No. 03-09-04.12A, § 13, 9-4-2003)

Sec. [42] 14. - Permitted Use.

Notwithstanding any other provision of the Ordinances of Sandoval County, Signs for which an application for a sign permit has been approved shall be a conforming use of the property in compliance with the ordinances of Sandoval County.

(Ord. No. 03-09-04.12A, § 14, 9-4- 2003)

Sec. [43] 15. - Variances.

A. Any request for a variance shall be submitted with filing fee to the Planning and Zoning Director or designee on a prescribed application form obtainable from the Planning and Zoning office. The Director shall transmit the application and any supplementary material within 90 days.

B. The Planning and Zoning Commission may impose necessary requirements in approving a variance to assure that the requested variance:

1. Will cause no significant hazard, annoyance, or inconvenience to the owners or occupants of nearby property; and
2. Will not significantly change the character of the neighborhood or reduce the value of nearby property.

(Ord. No. 03-09-04.12A, § 15, 9-4-2003)

Sec. [44] 16. - Fee Schedule.

(Based on total "Sign Face" and is a one time fee). $1.00 per square foot. Fees shall be collected for each separate structure used in the erection of v-type signs.

(Ord. No. 03-09-04.12A, § 16, 9-4-2003)

Sec. [45] 17. - Appeals.

Right of Appeal. Anyone aggrieved by a decision of the Planning & Zoning Director or the Zoning Commission in carrying out the provision of this Ordinance may appeal such decision in accordance with Section 22 of the Sandoval County Comprehensive Zoning Ordinance. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by evidence in the matter.

Sec. [46] 19. - Severability.

If any of the provisions of this Ordinance is declared illegal, void or unenforceable, the remaining prevision will not be affected and shall remain in full force and effect.

(Ord. No. 03-09-04.12A, § 19, 9-4-2003)

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ARTICLE III. - WIRELESS TELECOMMUNICATIONS FACILITIES

Sec. [47] 1. - Purpose and Legislative Intent.

Sec. [48] 2. - Title.

Sec. [49] 3. - Jurisdiction.

Sec. [50] 4. - Severability.

Sec. [51] 5. - Definitions.

Sec. [52] 6. - Overall Policy and Desired Goals for Conditional Use Permits for Wireless Telecommunications Facilities.

Sec. [53] 7. - Conditional Use Permit Application and Other Requirements.

Sec. [54] 8. - Establishment of Telecommunications Districts.

Sec. [55] 9. - Location of Wireless Telecommunications Facilities.

Sec. [56] 10. - Shared Use of Wireless Telecommunications Facilities and Other Structures.

Sec. [57] 11. - Height of Telecommunications Tower(s).

Sec. [58] 12. - Appearance and Visibility of Wireless Telecommunications Facilities.

Sec. [59] 13. - Security of Wireless Telecommunications Facilities.

Sec. [60] 14. - Signage.

Sec. [61] 15. - Lot Size and Setbacks.

Sec. [62] 16. - Retention of Expert Assistance and Reimbursement by Applicant.

Sec. [63] 17. - Exceptions from a Conditional Use Permit for Wireless Telecommunications Facilities.

Sec. [64] 18. - Public Hearing and Notification Requirements.

Sec. [65] 19. - Action on an Application for a Conditional Use Permit for Wireless Telecommunications Facilities.

Sec. [66] 20. - Existing Tower Requirements.

Sec. [67] 21. - Recertification of a Conditional Use Permit for Wireless Telecommunications Facilities.

Sec. [68] 22. - Extent and Parameters of Conditional Use Permit for Wireless Telecommunications Facilities.

Sec. [69] 23. - Application Fee.

Sec. [70] 24. - Performance Security.

Sec. [71] 25. - Reservation of Authority to Inspect Wireless Telecommunications Facilities.

Sec. [72] 26. - Notifications and Annual NIER Certification.

Sec. [73] 27. - Liability Insurance.

Sec. [74] 28. - Indemnification.

Sec. [75] 29. - Penalties.

Sec. [76] 30. - Default and/or Revocation.

Sec. [77] 31. - Removal of Wireless Telecommunications Facilities.

Sec. [78] 32. - Relief.

Sec. [79] 33. - Periodic Regulatory Review.

Sec. [80] 34. - Appeals.

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Sec. [81] 35. - Adherence to State and/or Federal Rules and Regulations.

Section [82] 36. - Conflict with Other Laws.

Section [83] 37. - Authority.

Sec. [47] 1. - Purpose and Legislative Intent.

The Telecommunications Act of 1996 affirmed the County of Sandoval's authority concerning the placement, construction and modification of Wireless Telecommunications Facilities. The County of Sandoval finds that Wireless Telecommunications Facilities may pose significant concerns to the health, safety, public welfare, character and environment of the County and its inhabitants. The County also recognizes that facilitating the development of wireless service technology can be an economic development asset to the County and of significant benefit to the County and its residents. In order to insure that the placement, construction or modification of Wireless Telecommunications Facilities is consistent with the County's land use policies, the County is adopting a single, comprehensive, Wireless Telecommunications Facilities application and permit process. The intent of this Local Ordinance is to minimize the negative impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the County of Sandoval.

(Ord. No. 03-10-16-11A, § 1, 10-16-2003)

Sec. [48] 2. - Title.

This article shall be known and cited as the Wireless Telecommunications Facilities Siting Ordinance for the County of Sandoval.

(Ord. No. 03-10-16-11A, § 2, 10-16-2003)

Sec. [49] 3. - Jurisdiction.

A) This ordinance is intended to and shall apply to all the territory within the County to the full extent of the jurisdiction permitted by NMSA 1978, § 3-21-2, excepting only such areas as are now within:

   1) The zoning jurisdiction of an incorporated municipality or Tribal land, whether such municipal jurisdiction is being exercised or not; or

   2) The concurrent-zoning jurisdiction of the County and an incorporated municipality provided such concurrent jurisdiction is being exercised under an existing extraterritorial authority or agreement.

B) Increase in Territory Subject to Jurisdiction This Ordinance shall apply automatically to all territory that may hereafter come within the County zoning jurisdiction.

C) Any Wireless Telecommunications Facilities located on Federal or State Lands within the unincorporated areas of Sandoval County shall be in full compliance with all requirements of said agencies and documentation showing approvals shall be submitted with the application to Sandoval County.

D) Decrease in Territory Subject to Jurisdiction this Ordinance shall cease to apply as to any territory that may hereafter come within:

   1) The zoning jurisdiction of an incorporated municipality;

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2) The exercised jurisdiction of a concurrent extraterritorial zoning authority or agreement; or

3) An increase in federal or tribal lands.

(Ord. No. 03-10-16-11A, § 3, 10-16-2003)

Sec. [50] 4. - Severability.

A) If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

B) Any Conditional Use Permit issued under this Ordinance shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the County.

(Ord. No. 03-10-16-11A, § 4, 10-16-2003)

Sec. [51] 5. - Definitions.

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

1. "*Accessory Facility or Structure*" means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

2. "*Applicant*" means any Wireless service provider submitting an Application for a Conditional Use Permit for Wireless Telecommunications Facilities.

3. "*Application*" means all necessary and appropriate documentation that an Applicant submits in order to receive a Conditional Use Permit for Wireless Telecommunications Facilities.

4. "*Antenna*" means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PCS), microwave Telecommunications and services not licensed by the FCC, but not expressly exempt from the County's siting, building and permitting authority.

5. "*Citizens Band Radio*" FCC licensed transmitter on the Citizens Radio Band. Legal maximum power output is 5 watts. This antenna is limited by the Federal Communications Commission to sixty-five (65) feet. There will be no other exceptions for this usage. Construction of tower exceeding 120 square feet will require a State building permit.

6. "*Commission*" means the Board of County Commissioners of the County of Sandoval, New Mexico.

7. "*Collocation*" means the use of a Tower or structure to support Antennae for the provision of wireless services without increasing the height of the Tower or structure.

8. "*Commercial Impracticability*" or "*Commercially Impracticable*" means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have

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been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercial impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".

9. "*Completed Application*" means an Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.
10. "*County*" means the County of Sandoval, New Mexico.
11. *"COW,"* Cellular on Wheels, [means] temporary Cell site.
12. "*FAA*" means the Federal Aviation Administration, or its duly designated and authorized successor agency.
13. "*FCC*" means the Federal Communications Commission, or its duly designated and authorized successor agency.
14. "*Height*" means, when referring to a Tower or structure, the distance measured from the preexisting grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightening protection device.
15. "*Modification*" or "*Modify*" means, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.
16. "*NIER*" means Non-Ionizing Electromagnetic Radiation.
17. "*Person*" means any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons having a joint common interest, or any other entity.
18. "*Personal Wireless Facility.*" See definition for *"Wireless Telecommunications Facilities."*
19. *"Personal Wireless Services"* or *"PWS"* or *"Personal Telecommunications Service"* or *"PCS"* shall have the same meaning as defined and used in the 1996 Telecommunications Act.
20. "*Public Safety Radio*" [means] a publicly (FCC) licensed transmitter on the Public Safety Band. Standard power output is 150 watts (e.r.p.). Maximum power output not to exceed FCC licensed approval.
21. "*Telecommunication Site.*" See definition for *"Wireless Telecommunications Facilities."*
22. "*Conditional Use Permit*" means the official document or permit by which an Applicant is allowed to construct and use Wireless Telecommunications Facilities as granted or issued by the County.
23. "*Square Footage"* [means] the measurement of Height times Width of a single face of a tower.
24. "*Stealth*" or "*Stealth Technology*" means minimiz[ing] adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
25. "*State*" means the State of New Mexico.

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26. "*Telecommunications*" means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

27. "*Telecommunications Structure*" means a structure used in the provision of services described in the definition of *"Wireless Telecommunications Facilities."*

28. "Temporary" means, in relation to all aspects and components of this Ordinance, something intended to, or that does, exist for fewer than 90 days.

29. "*Wireless Telecommunications Facilities*" means and includes a "Telecommunications Tower" and "Tower" and "Telecommunications Site" and "Personal Wireless Facility," means a structure, facility or location designed, or intended to be used as, or used to support, Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water, tower, sign or other structures that can be used to mitigate the visual impact of an Antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal Telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the County's siting, building and permitting authority, excluding those used exclusively for the County's fire, police or exclusively for private, non-commercial radio and television reception and private citizen's bands, amateur radio and other similar non-commercial Telecommunications where the height of the facility is below the height limits set forth in this ordinance.

30. "*Zoning Officer*" [means] the Planning and Zoning Director and/or his/her designee.

(Ord. No. 03-10-16-11A, § 5, 10-16-2003)

Sec. [52] 6. - Overall Policy and Desired Goals for Conditional Use Permits for Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the County's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Ordinance, the County hereby adopts an overall policy with respect to a Conditional Use Permit for Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

1) Implementing an Application process for person(s) seeking a Conditional Use Permit for Wireless Telecommunications Facilities;

2) Establishing a policy for examining an application for and issuing a Conditional Use Permit for Wireless Telecommunications Facilities that is both fair and consistent.

3) Ordinance Promoting and encouraging, wherever possible, the sharing and/or collocation of Wireless Telecommunications Facilities among service providers;

4) Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications Facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

(Ord. No. 03-10-16-11A, § 6, 10-16-2003)

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Sec. [53] 7. - Conditional Use Permit Application and Other Requirements.

A) All Applicants for a Conditional Use Permit for Wireless Telecommunications Facilities or any modification of such facility shall comply with the requirements set forth in this section. The County Commission is the officially designated agency or body of the County to whom applications for a Conditional Use Permit for Wireless Telecommunications Facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking Conditional Use permits for Wireless Telecommunications Facilities. The County may at its discretion delegate or designate other official agencies of the County or others to accept, review, analyze, evaluate and make recommendations to the County Commission with respect to the granting or not granting, recertifying or not recertifying or revoking Conditional Use permits for Wireless Telecommunications Facilities.

B) An Application for a Conditional Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the Applicant, shall also sign the Application and shall agree to remove any existing violations and make all existing telecommunications facilities compliant with this ordinance and all applicable local, state and telecommunications codes prior to the issuance of any Certificate of Occupancy or Compliance or the functional equivalent for a new or modified wireless facility at the discretion of the County, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction.

C) Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the County.

D) The Applicant shall include a statement in writing:

1) That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the Conditional Use Permit, without exception, unless specifically granted relief by the County in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable County, State and Federal Laws, rules, and regulations;

2) That the construction of the Wireless Telecommunications Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State.

E) No Wireless Telecommunications Facilities shall be installed or constructed until the Application is reviewed and approved by the County, and the Conditional Use Permit has been issued.

F) All applications for the construction or installation of new Wireless Telecommunications Facilities shall contain the information hereinafter set forth. The application shall be signed by an authorized individual on behalf of the Applicant. Where a certification is called for, such certification shall bear the signature and seal of a Professional Engineer licensed in the State. The Application shall include the following information:

1) Documentation that demonstrates the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the County. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;

2) The Name, address and phone number of the person preparing the report;

3) The Name, address, and phone number of the property owner, operator, and Applicant, and to include the legal form of the Applicant;

4) The Postal address and tax map parcel number of the property;

5) The Zoning District or designation in which the property is situated;

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6) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;

7) The Location of nearest residential structure;

8) The Location, size and height of all structures on the property which is the subject of the Application;

9) The Location, size and height of all proposed and existing antennae and all appurtenant structures;

10) The Type, locations and dimensions of all proposed and existing landscaping, and fencing;

11) The number, type and design of the Tower(s) and Antenna(s) proposed and the basis for the calculations of the Tower's capacity to accommodate multiple users;

12) The make, model and manufacturer of the Tower and Antenna(s);

13) A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting;

14) The frequency, modulation and class of service of radio or other transmitting equipment;

15) The actual intended transmission and the maximum effective radiated power of the Antenna(s);

16) Direction of maximum lobes and associated radiation of the Antenna(s);

17) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;

18) Certification that the proposed Antenna(s) will not cause interference with other telecommunications devices;

19) A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;

20) Certification that a topographic and geomorphologic study and analysis has been conducted and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site.

G) In the case of a new Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or the use of alternative buildings or other structures within the County. Copies of written requests and responses for shared use shall be provided to the County in the Application, along with any letters of rejection stating the reason for rejection.

H) The Applicant shall certify that the Telecommunication Facility, foundation and attachments are designed and will be constructed to meet all local, County, State and Federal structural requirements for loads, including wind and ice loads.

I) The Applicant shall certify that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.

J) An Applicant may be required to submit an Environmental Assessment Analysis and a Visual addendum. Based on the results of the Analysis, including the Visual addendum, the County may require submission of a more detailed visual analysis. The scope of the required Environmental and visual assessment will be reviewed at the preapplication meeting.

K) The Applicant shall furnish a Visual Impact Assessment, which shall include:

1) A "Zone of Visibility Map" which shall be provided in order to determine locations from which the Tower may be seen.

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2) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the County as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at a preapplication meeting.

3) An assessment of the visual impact of the Tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

L) The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related facilities and structures of the proposed Wireless Telecommunications Facilities.

M) Any and all representations made by the Applicant to the County on the record during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the County.

N) All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

O) All Wireless Telecommunications Facilities shall contain a demonstration that the Facility be sited so as to be the least visually intrusive reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the Wireless Telecommunications Facility.

P) Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may required by the County.

Q) At a Telecommunications Site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

R) A Person who holds a Conditional Use Permit for Wireless Telecommunications Facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Wireless Telecommunications Facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the County, County, State, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

S) A holder of a Conditional Use Permit granted under this Ordinance shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the County or other governmental entity or agency having jurisdiction over the applicant.

T) An Applicant shall submit to the County the number of completed Applications determined to be needed at the preapplication meeting. Written notification of the Application shall be provided to the legislative body of all adjacent municipalities and to the County Planning Department.

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U) The Applicant shall examine the feasibility of designing a proposed Tower to accommodate future demand for at least five additional commercial applications, for example, future collocations. The Tower shall be structurally designed to accommodate at least five additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:

1) The foreseeable number of FCC licenses available for the area;

2) The kind of Wireless Telecommunications Facilities site and structure proposed;

3) The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;

4) Available space on existing and approved Towers.

V) The owner of the proposed new Tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed Tower by other Wireless service providers in the future, and shall:

1) Respond within 60 days to a request for information from a potential shared-use Applicant;

2) Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;

3) Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.

Failure to abide by the conditions outlined above may be grounds for revocation of the Conditional Use Permit for the Tower.

W) There shall be a preapplication meeting. The purpose of the preapplication meeting will be to address issues, which will help to expedite the review and permitting process. A preapplication meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the County's consultants to prepare for and attend the preapplication meeting will be borne by the applicant.

X) The holder of a Conditional Use Permit shall notify the County of any intended modification of a Wireless Telecommunications Facility and shall apply to the County to modify, relocate or rebuild a Wireless Telecommunications Facility.

Y) In order to better inform the public, in the case of a new Telecommunication Tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test". The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three foot in diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the Applicant seven and 14 days in advance of the first test date in a newspaper with a general circulation in the County. The Applicant shall inform the County, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 PM on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.

Z) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the Tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. It this analysis determines, that the FAA must be contacted, then all

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filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner.

AA) All applicants for Conditional Use Permit for Wireless Telecommunications Facilities or any modification of such facilities should develop their plans to allow reasonable requests from the County to use space on its towers and space within the existing or planned compound for deploying and operating public service radio facilities (e.g., police, fire, emergency, homeland security, etc.). On an existing tower, should the addition of County requirements exceed structural limits the request may be denied. The County will pay no fees for space on towers or for space within the compound. The County will also require access to its equipment on a 24 × 7 basis for maintenance and operating requirements. However, the County will work with the respective applicants to insure they receive adequate advance notice for routine activities (excluding emergencies.)

(Ord. No. 03-10-16-11A, § 7, 10-16-2003)

Sec. [54] 8. - Establishment of Telecommunications Districts.

A) *Communication Districts.* In order to carry out the provisions of this Ordinance, the following Communication districts are established:

1) SSCD - Southern Sandoval County Communication District: The Southern District is comprised of a dense or high population or growth area. Multiple smaller towers are needed to meet the need for service by providers.

2) JCCD - Jemez Corridor Communication District: The Jemez District is comprised of medium population or growth areas with mountainous regions requiring multiple types of equipment and towers to achieve coverage.

3) RCCD - Rural County Communication District: The Rural District is comprised of sparse or light population or growth areas. Taller towers can be used with increased distances between towers.

These districts are created as a result of the varied demographic and geographic features of Sandoval County.

[B)] C) *District Map.* A map of the Communication districts shall be included in this Ordinance. (See figure 8.1.)

[C)] D) *District Standards.* The standards will apply as defined throughout the ordinance.

(Ord. No. 03-10-16-11A, § 8, 10-16-2003)

Sec. [55] 9. - Location of Wireless Telecommunications Facilities.

A) Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities in each of the Telecommunications Districts, one being the highest priority and six being the lowest priority.

1) On existing Towers or other structures without increasing the height of the tower or structure;

2) On County-owned properties;

3) On properties in areas zoned for Heavy Industrial use;

4) On properties in areas zoned for Commercial use;

5) On properties in areas zoned for Agricultural use;

6) On properties in areas zoned for Residential use.

B) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an

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exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

C) An Applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An Application shall address collocation as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the County why collocation is Commercially or otherwise Impracticable. Agreements between providers limiting or prohibiting collocation shall not be a valid basis for any claim of Commercial Impracticability or hardship.

D) Notwithstanding the above, the County may approve any site located within an area in the above list of priorities, provided that the County finds that the proposed site is in the best interest of the health, safety and welfare of the County and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

E) The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.

F) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the County may disapprove an Application for any of the following reasons:

1) Conflict with safety and safety-related codes and requirements;

2) Conflict with the historic nature or character of a neighborhood or historical district;

3) The use or construction of Wireless Telecommunications Facilities, which is contrary to an already stated purpose of a specific zoning or land use designation;

4) The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the County, or employees of the service provider or other service providers;

5) Conflicts with the provisions of this Ordinance.

(Ord. No. 03-10-16-11A, § 9, 10-16-2003)

Sec. [56] 10. - Shared Use of Wireless Telecommunications Facilities and Other Structures.

A) Locating on existing Towers or others structures without increasing the height, shall be preferred by the County, as opposed to the construction of a new Tower. The Applicant shall submit a comprehensive report inventorying existing Towers and other suitable structures within four miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more reasonable and demonstrate conclusively why an exiting Tower or other suitable structure can not be used.

B) An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant.

C) Such shared use shall consist only of the minimum Antenna array technologically required to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.

(Ord. No. 03-10-16-11A, § 10, 10-16-2003)

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Sec. [57] 11. - Height of Telecommunications Tower(s).

A) In all districts the support structure and roof mounted antennas or antennas mounted to existing structures shall not exceed the height of roofline of existing structure. Ground Mounted structures and antenna shall not exceed seventy-five (75) feet in height above the existing grade in the Southern District. Ground Mounted structures and antennas in the Jemez and Rural Districts shall not exceed one hundred ninety five (195) feet from existing grade. No tower shall be higher than 195 feet.

B) The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna and the basis therefor. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.

C) Building mounted antennae should be located and designed to be an integral part of the building and shall be secured or camouflaged, as necessary or as reasonably required by the Board, to minimize the visual impact on surrounding properties and minimize any change in or impact on the nature and character of the community.

D) No Tower constructed after the effective date of this Ordinance, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, County, State, and/or any Federal statute, law, local law, County ordinance, code, rule or regulation.

(Ord. No. 03-10-16-11A, § 11, 10-16-2003)

Sec. [58] 12. - Appearance and Visibility of Wireless Telecommunications Facilities.

A) Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.

B) Towers shall be galvanized and painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.

C) If lighting is required, [the] Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

(Ord. No. 03-10-16-11A, § 12, 10-16-2003)

Sec. [59] 13. - Security of Wireless Telecommunications Facilities.

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1) All Antennas, Towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and

2) Transmitters and Telecommunications control points shall be installed such a manner that they are readily accessible only to persons authorized to operate or service them.

(Ord. No. 03-10-16-11A, § 13, 10-16-2003)

Sec. [60] 14. - Signage.

Wireless Telecommunications Facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of an Antenna that has

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transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other signage, including advertising, shall be permitted.

(Ord. No. 03-10-16-11A, § 14, 10-16-2003)

Sec. [61] 15. - Lot Size and Setbacks.

A) All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the Tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

B) Any decision of the Planning and Zoning Office may be appealed to the Planning and Zoning Commission as provided in Section 33 of this Ordinance.

(Ord. No. 03-10-16-11A, § 15, 10-16-2003)

Sec. [62] 16. - Retention of Expert Assistance and Reimbursement by Applicant.

A) The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any requests for recertification.

B) An Applicant shall deposit with the County funds sufficient to reimburse the County for all reasonable costs of consultant and expert evaluation and consultation to the County in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be $8,500.00. The placement of the $8,500.00 with the County shall precede the preapplication meeting. The County will maintain a separate escrow account for all such funds. The County's consultants/experts shall invoice the County for its services in reviewing the Application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than $2,500.00, the Applicant shall immediately, upon notification by the County, replenish said escrow account so that it has a balance of at least $5,000.00. Such additional escrow funds shall be deposited with the County before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the County is more than the amount of the actual invoicing [at the conclusion of the project] for work performed through the date of issuance of a Certificate of Occupancy or Compliance for the project, the remaining balance shall be promptly refunded to the Applicant.

C) The total amount of the funds needed as set forth in subsection (B) of this section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

(Ord. No. 03-10-16-11A, § 16, 10-16-2003)

Sec. [63] 17. - Exceptions from a Conditional Use Permit for Wireless Telecommunications Facilities.

A) No Person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, Wireless Telecommunications Facilities as of the effective date of this

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Ordinance without having first obtained a Conditional Use Permit for Wireless Telecommunications Facilities. Notwithstanding anything to the contrary in this section, no Conditional Use Permit shall be required for those non-commercial exceptions noted in the definition of Wireless Telecommunications Facilities.

B) All Wireless Telecommunications Facilities existing on or before the effective date of this Ordinance shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing Wireless Telecommunications Facility must comply with this Ordinance.

C) All Amateur Radio Facilities that meet the requirements of the FCC are exempt from the zoning requirements of this Ordinance, but will require a building permit for any tower with a single face exceeding 120 square feet.

(Ord. No. 03-10-16-11A, § 17, 10-16-2003)

Sec. [64] 18. - Public Hearing and Notification Requirements.

A) Prior to the approval of any Application for a Conditional Use Permit for Wireless Telecommunications Facilities, a public hearing shall be held by the County, notice of which shall be published in the official newspaper of the County no less than ten calendar days prior to the scheduled date of the public hearing. In order that the County may notify nearby landowners, the Applicant, the Application shall contain the names and address of all landowners whose property is located within fifteen hundred (1,500) feet of any property line of the lot or parcel on which the new Wireless Telecommunications Facilities are proposed to be located.

B) There shall be no public hearing required for an application to co-locate on an existing tower or other structure, as long as there is no proposed increase in the height of the Tower or structure, including attachments thereto.

C) The County shall schedule the public hearing referred to in Subsection (A) of this section once it finds the Application is complete, the County, at any stage prior to issuing a Conditional Use Permit, may require such additional information as it deems necessary.

(Ord. No. 03-10-16-11A, § 18, 10-16-2003)

Sec. [65] 19. - Action on an Application for a Conditional Use Permit for Wireless Telecommunications Facilities.

A) The County and/or its consultant will undertake a review of an Application pursuant to this Ordinance in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.

B) The County may refer any Application or part thereof to any advisory or other committee for a non-binding recommendation.

C) After the public hearing and after formally considering the Application, the County may approve, approve with conditions, or deny a Conditional Use Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the Applicant.

D) If the County approves the Conditional Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such approval in writing within ten calendar days of the County's action, and the Conditional Use Permit shall be issued within 30 days after such approval. Except for necessary building permits, and subsequent Certificates of Compliance, once a Conditional Use Permit has been granted hereunder, no additional permits or approvals from the County, such as site plan or zoning approvals, shall be required by the County for the Wireless Telecommunications Facilities covered by the Conditional Use Permit.

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E) If the County denies the Conditional Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten calendar days of the County's action.

(Ord. No. 03-10-16-11A, § 19, 10-16-2003)

Sec. [66] 20. - Existing Tower Requirements.

Companies with existing towers within Sandoval County will be given three months from the date of notification to provide: the locations, present array load and the available collocate space on each tower. This information will be required to update all addressing, nonconforming conditions, and assessment information.

(Ord. No. 03-10-16-11A, § 20, 10-16-2003)

Sec. [67] 21. - Recertification of a Conditional Use Permit for Wireless Telecommunications Facilities.

A) Between 12 months and six months prior to the five year anniversary date after the effect date of the Conditional Use Permit and all subsequent five year anniversaries of the effective date of the original Conditional Use Permit for Wireless Telecommunications Facilities, the holder of a Conditional Use Permit for such Wireless Telecommunication Facilities shall submit a signed written request to the County for recertification. In the written request for recertification, the holder of such Conditional Use Permit shall note the following:

1) The name of the holder of the Conditional Use Permit for the Wireless Telecommunications Facilities;

2) If applicable, the number or title of the Conditional Use Permit;

3) The date of the original granting of the Conditional Use Permit;

4) Whether the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise visibly modified since the issuance of the Conditional Use Permit and if so, in what manner;

5) If the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise visibly modified, then whether the County approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;

6) That the Wireless Telecommunications Facilities are in compliance with the Conditional Use Permit and compliance with all applicable codes, Laws, rules and regulations;

7) Recertification that the Tower and attachments both are designed and constructed and continue to meet all local, County, State and Federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a Professional Engineer licensed in the State, the cost of which shall be borne by the Applicant.

B) If, after such review, the County determines that the permitted Wireless Telecommunications Facilities are in compliance with the Conditional Use Permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the County issue a recertification of the Conditional Use Permit for the Wireless Telecommunications Facilities, which may include any new provisions or conditions that are mutually agreed upon, or that are required by applicable statutes, laws, ordinances, codes, rules or regulations. If, after such review it is determined that the permitted Wireless Telecommunications Facilities are not in compliance with the Conditional Use Permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the County may refuse to issue a recertification Conditional Use Permit for the Wireless Telecommunications Facilities, and in such event, such Wireless Telecommunications Facilities shall not be used after the date that the Applicant receives written notice of the decision by the County until such time as the Facility is brought into compliance. Any decision requiring the cessation of use of the Facility or imposing a

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penalty shall be in writing and supported by substantial evidence contained in a written record and shall be promptly provided to the owner of the Facility.

C) If the Applicant has submitted all of the information requested and required by this Ordinance, and if the review is not completed, as noted in subsection (B) of this section, prior to the five year anniversary date of the Conditional Use Permit, or subsequent five-year anniversaries, then the Applicant for the permitted Wireless Telecommunications Facilities shall receive an extension of the Conditional Use Permit for up to six months, in order for the completion of the review.

D) If the holder of a Conditional Use Permit for Wireless Telecommunications Facilities does not submit a request for recertification of such Conditional Use Permit within the timeframe noted in subsection A) of this section, then such Conditional Use Permit and any authorizations granted there under shall cease to exist on the date of the fifth anniversary of the original granting of the Conditional Use Permit, or subsequent five year anniversaries, unless the holder of the Conditional Use Permit adequately demonstrates that extenuating circumstances prevented a timely recertification request. If the County agrees that there were legitimately extenuating circumstances, then the holder of the Conditional Use Permit may submit a late recertification request or Application for a new Conditional Use Permit.

(Ord. No. 03-10-16-11A, § 21, 10-16-2003)

Sec. [68] 22. - Extent and Parameters of Conditional Use Permit for Wireless Telecommunications Facilities.

The extent and parameters of a Conditional Use Permit for Wireless Telecommunications Facilities shall be as follows:

A) Such Conditional Use Permit shall be non-exclusive.

B) Such Conditional Use Permit shall not be assigned, transferred or conveyed without the express prior written notification to the County.

C) Such Conditional Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Conditional Use Permit, or for a material violation of this Ordinance after prior written notice to the holder of the Conditional Use Permit.

(Ord. No. 03-10-16-11A, § 22, 10-16-2003)

Sec. [69] 23. - Application Fee.

A) At the time that a person submits an Application for a Conditional Use Permit for a new Tower, such person shall pay a non-refundable application fee as listed below to the County.

B) Fee schedule: Application. Any application required by this Ordinance shall be filed with the required filing fee on prescribed forms obtained from the Planning and Zoning Department. Such fees shall not be required where the County or any official thereof is the moving party. Other parties as indicated in this document are exempt from fee requirements.

C) Fees - Filing fees will be charged as follows per site:

Conditional Use Review:	$60.00
Tower Application Fee:	$5,000.00 (includes building permit and Address fees)
Collocation Applications Fee:	$3,000.00

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Appeal:	$250.00
Temporary Use Permit:	$50.00
Late Fee Penalty — Applications for and Fees Collected after the fact, shall be double as that listed above.	

D) No Application fee is required in order to rectify a Conditional Use Permit for Wireless Telecommunications Facilities, unless there has been a visible modification of the Wireless Telecommunications Facilities since the date of the issuance of the existing Conditional Use Permit for which the conditions of the Conditional Use Permit have not previously been modified. In the case of any modification, the fees provided in Subsection (A) shall apply.

(Ord. No. 03-10-16-11A, § 23, 10-16-2003)

Sec. [70] 24. - Performance Security.

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount of at least $75,000.00 and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Conditional Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Conditional Use Permit.

(Ord. No. 03-10-16-11A, § 24, 10-16-2003)

Sec. [71] 25. - Reservation of Authority to Inspect Wireless Telecommunications Facilities.

In order to verify that the holder of a Conditional Use Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, Laws, ordinances and regulations and other applicable requirements, the County may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.

(Ord. No. 03-10-16-11A, § 25, 10-16-2003)

Sec. [72] 26. - Notifications and Annual NIER Certification.

A) The holder of the Conditional Use Permit shall, annually, certify to the County that NIER levels at the site are within the threshold levels adopted by the FCC.

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B) The holder of the Conditional Use Permit shall, provide 24 hour notification of any changes or modifications (e.g. re-positioning antenna, propagation patterns) that will affect the defined service areas. This information is necessary to support advance notification of E911 Service Centers.

(Ord. No. 03-10-16-11A, § 26, 10-16-2003)

Sec. [73] 27. - Liability Insurance.

A) A holder of a Conditional Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Conditional Use Permit in amounts as set forth below:

1) Commercial General Liability covering personal injuries, death and property damage: $1,000,000.00 per occurrence/$2,000,000.00 aggregate;

2) Automobile Coverage: $1,000,000.00 per occurrence/$2,000,000.00 aggregate;

3) Workers Compensation and Disability: Statutory amounts.

B) The Commercial General Liability insurance policy shall specifically include the County and its officers, Commissions, employees, committee members, attorneys, agents and consultants as additional named insured.

C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.

D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least 30 days prior written notice in advance of the cancellation of the insurance.

E) Renewal or replacement policies or certificates shall be delivered to the County at least 15 days before the expiration of the insurance that such policies are to renew or replace.

F) Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than 15 days after the grant of the Conditional Use Permit, the holder of the Conditional Use Permit shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts.

(Ord. No. 03-10-16-11A, § 27, 10-16-2003)

Sec. [74] 28. - Indemnification.

A) Any application for Wireless Telecommunications Facilities that is proposed for County property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the County, and its officers, Commissions, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the County, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the County.

B) Notwithstanding the requirements noted in subsection (A) of this section, an indemnification provision will not be required in those instances where the County itself applies for and secures a Conditional Use Permit for Wireless Telecommunications Facilities.

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(Ord. No. 03-10-16-11A, § 28, 10-16-2003)

Sec. [75] 29. - Penalties.

A) Anyone violating any of the provisions of this Ordinance shall upon conviction be subject to a fine not exceeding $300.00 or imprisonment for a period not exceeding 90 days, or both such fine and imprisonment. Any violation continued for a period of 30 days after conviction shall be prosecuted and treated as a separate offense.

B) Violations of the reporting clause of this Ordinance shall be cause to have the violator's permit(s) to be suspended or revoked, in addition to the above listed penalty.

C) However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of Law relating to misdemeanors shall apply to such violations. Each day(s) continued violation shall constitute a separate additional violation.

D) Notwithstanding anything in this Ordinance, the holder of the Conditional Use Permit for Wireless Telecommunications Facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Ordinance or any section of this Ordinance. An attempt to do so shall subject the holder of the Conditional Use Permit to termination and revocation of the Conditional Use Permit. The County may also seek injunctive relief to prevent the continued violation of this Ordinance, without limiting other remedies available to the County.

(Ord. No. 03-10-16-11A, § 29, 10-16-2003)

Sec. [76] 30. - Default and/or Revocation.

A) If Wireless Telecommunications Facilities are repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Conditional Use Permit, then the County shall notify the holder of the Conditional Use Permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the violations must be corrected within seven days of the date of the postmark of the Notice, or of the date of personal service of the Notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this Ordinance, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the County may, at its sole discretion, order the violation remedied within 24 hours.

B) If within the period set forth in [subsection] A) [of this section] above the Wireless Telecommunications Facilities are not brought into compliance with the provisions of this Ordinance, or of the Conditional Use Permit, or substantial steps are not taken in order to bring the affected Wireless Telecommunications Facilities into compliance, then the County may revoke such Conditional Use Permit for Wireless Telecommunications Facilities, and shall notify the holder of the Conditional Use Permit within 48 hours of such action.

(Ord. No. 03-10-16-11A, § 30, 10-16-2003)

Sec. [77] 31. - Removal of Wireless Telecommunications Facilities.

A) Under the following circumstances, the County may determine that the health, safety, and welfare interests of the County warrant and require the removal of Wireless Telecommunications Facilities.

1) Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;

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2) Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;

3) Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Conditional Use Permit, or any other necessary authorization.

B) If the County makes such a determination as noted in subsection A) of this section, then the County shall notify the holder of the Conditional Use Permit for the Wireless Telecommunications Facilities within 48 hours that said Wireless Telecommunications Facilities are to be removed, the County may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.

C) The holder of the Conditional Use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the County. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the County.

D) If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within 90 days after the permit holder has received notice, then the County may order officials or representatives of the County to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Conditional Use Permit holder.

E) If the County removes, or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location within ten days, then the County may take steps to declare the Wireless Telecommunications Facilities abandoned, and sell them and their components.

F) Notwithstanding anything in this Section to the contrary, the County may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more 90 days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Conditional Use Permit, subject to the approval of the County, and an agreement to such plan shall be executed by the holder of the Conditional Use Permit and the County. If such a plan is not developed, approved and executed within the 90 day time period, then the County may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

(Ord. No. 03-10-16-11A, § 31, 10-16-2003)

Sec. [78] 32. - Relief.

Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Ordinance may request such at the preapplication meeting, provided that the relief or exemption is contained in the original Application for either a Conditional Use Permit, or, in the case of an existing or previously granted Conditional Use Permit, a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant to prove. The Applicant shall bear all costs of the County in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the County, its residents and other service providers.

(Ord. No. 03-10-16-11A, § 32, 10-16-2003)

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Sec. [79] 33. - Periodic Regulatory Review.

A) The County may at any time conduct a review and examination of this entire Ordinance.

B) If after such a periodic review and examination of this Ordinance, the County determines that one or more provisions of this Ordinance should be amended, repealed, revised, clarified, or deleted, and then the County may take whatever measures are necessary in accordance with applicable Law in order to accomplish the same. It is noted that where warranted, and in the best interests of the County, the County may repeal this entire Ordinance at any time.

C) Notwithstanding the provisions of subsections A) and B) of this Section, the County may at any time and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this Ordinance.

(Ord. No. 03-10-16-11A, § 33, 10-16-2003)

Sec. [80] 34. - Appeals.

Right of Appeal. Anyone aggrieved by a decision of the Zoning Officer or the Zoning Commission in carrying out the provision of this Ordinance may appeal such decision as specified in Table A below. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by evidence in the matter.

TABLE A

Type of Application	Zoning Officer	Zoning Commission	County Board
Temporary Use Permit (Administrative Procedure)	Decision	Considers Appeal (Hearing)	Considers Appeal of Zoning Commission (Record Hearing)
Conditional Use Permit	Recommends	Decision (Hearing)	Considers Appeal of Zoning Commission (Record Hearing)
Variance	Recommends	Decision (Hearing)	Considers Appeal of Zoning Commission (Record Hearing)

A) *Application.* Any appeal following a decision of the Planning and Zoning Officer shall be made in writing to the Board of County Zoning Commissioners on prescribed forms obtainable from the Zoning Officer upon payment of the applicable filing fee. Appeals shall be filed within 15 working days of the date of the Zoning Officer's Decision. Appeals of the Zoning Commission will be heard by

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the Board of County Commissioners. These appeals shall be filed within 15 working days of the date of the Zoning Commission's Decision.

1) Public Hearing. The decision on an appeal shall be made by the appropriate body as specified in Table A following a public hearing. Within 60 days of the date of the filing of an appeal the Zoning Officer shall schedule a date for the public hearing. At that time, person(s) filing the appeal shall be notified by certified mail, return receipt requested, of the time and place of the of the public hearing. The date of the appeal hearing will be scheduled by the Zoning Officer based in part upon the quantity and complexity of other matters pending before the body that is to consider the appeal. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the County at least 15 days prior to the hearing. At the same time, notice shall be provided via certified mail, return receipt requested, to the original applicant (if he/she is not the appellant) and the owners of the property adjacent to the property that is the subject of the appeal.

2) Review on Record. Any review of a decision of the Zoning Commission by the County Board shall be confined to the record of the proceedings, which shall include:

3) All materials, pleadings, memoranda, stipulations, and motions submitted by any party to the proceeding and received or considered by the Zoning Officer or Zoning Commission as evidence;

4) All materials submitted to the Zoning Officer with respect to any application(s);

5) The minutes and/or tape recording of the public hearing(s) held by the Zoning Commission;

6) The findings of fact and conclusion of law entered by the Zoning Commission following their decision; and

7) Argument confined to the record by the parties or their legal representatives at the time of review before the County Board.

B) *Stay of Proceedings.* An appeal shall stay all proceedings in the action unless the Zoning Officer or Zoning Commission certifies that a stay will cause imminent peril to life or property. Upon such certification, the proceedings shall not be stayed except by order of the district court.

C) *Decision.* At the public hearing, the appellate body (either the County Board or Zoning Commission, whichever is applicable) may reverse, change, or affirm the decision appealed. A majority vote of the members of the County Board is required to reverse or change a decision, made by the Zoning Commission. The decision of the Board of County Commissioners shall become final on the date the decision is recorded by the County Clerk.

(Ord. No. 03-10-16-11A, § 34, 10-16-2003)

Sec. [81] 35. - Adherence to State and/or Federal Rules and Regulations.

A) To the extent that the holder of a Conditional Use Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Conditional Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Conditional Use Permit for Wireless Telecommunications Facilities, then the holder of such a Conditional Use Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of

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24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

C) Complaints and Notification. The Zoning Officer may institute any appropriate actions or proceedings whenever there is a probable cause to believe there is a violation of this Ordinance. Any person aggrieved by an apparent violation of this Ordinance shall file a written complaint with the Zoning Officer who shall immediately document in writing the nature of the complaint and investigate such complaint to determine if a violation of this Ordinance is found to exist. Whenever the Zoning Officer finds probable cause to believe a violation of this Ordinance exists, whether acting on independent initiative or in response to an investigated complaint, the Zoning Officer shall notify the person responsible for the alleged violation in writing. Such notification shall order the necessary correction to be made within 30 days following the date of notification. Any person who fails to comply with the notification order shall be subject to penalties as stated in this Ordinance.

(Ord. No. 03-10-16-11A, § 35, 10-16-2003)

Section [82] 36. - Conflict with Other Laws.

Where this Ordinance differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or federal government, this Ordinance shall apply.

(Ord. No. 03-10-16-11A, § 36, 10-16-2003)

Section [83] 37. - Authority.

This Local Ordinance is enacted pursuant to applicable authority granted by the State and federal government.

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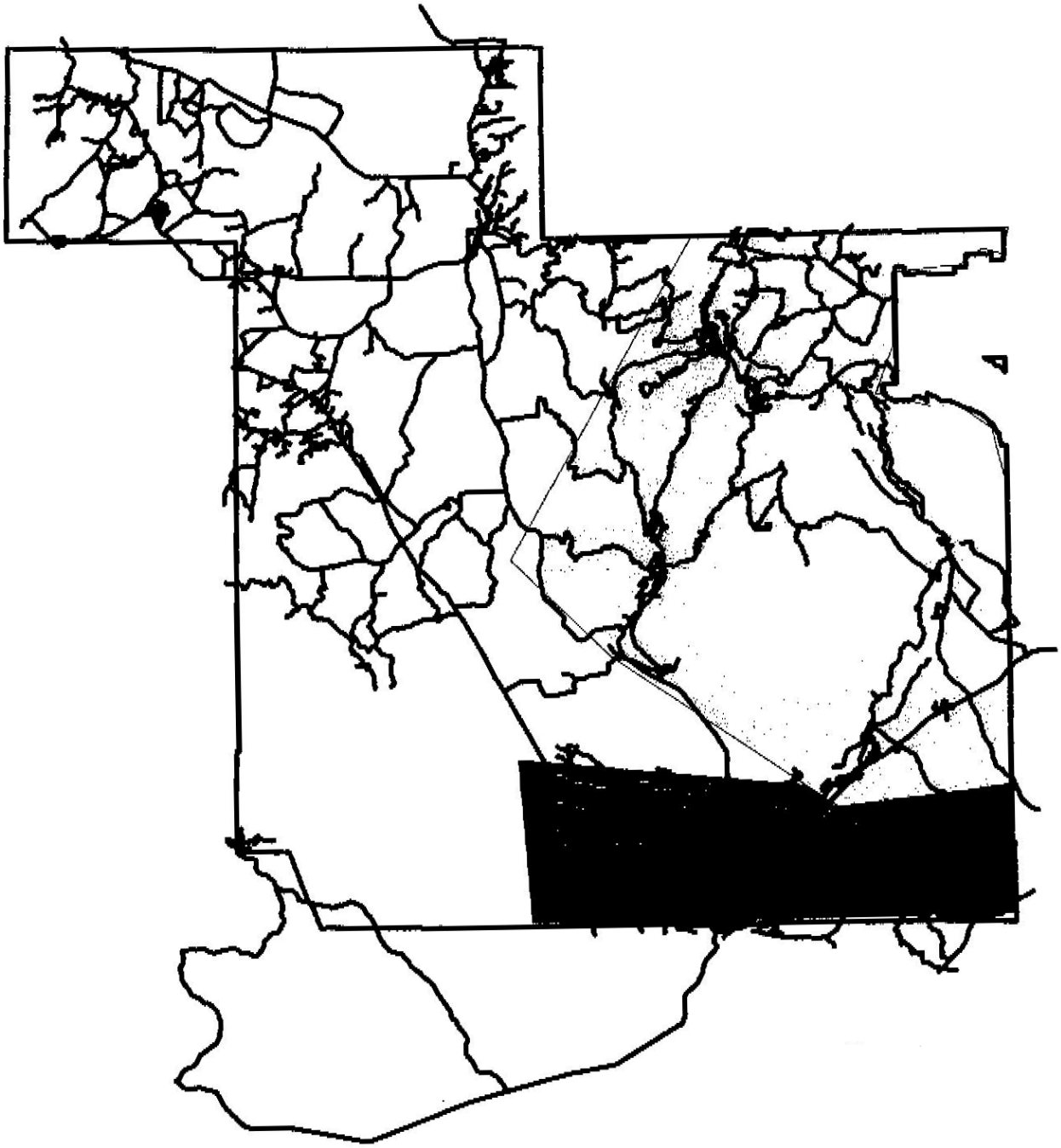

Figure 8.1

(Ord. No. 03-10-16-11A, § 37, 10-16-2003)

CODE COMPARATIVE TABLE

ORDINANCES

This is a chronological listing of the ordinances of the county used in this Code. Repealed or superseded laws at the time of the codification and any omitted materials are not reflected in the table.

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85-08-01	5- 8-1985	1—6	16-55—16-60
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STATE LAW REFERENCE TABLE

This table shows the location within this Code, either in the text or notes following the text, of references to the New Mexico Statutes Annotated (NMSA 1978).

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