# Chapter 1 – General Provisions

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# CHAPTER ONE – GENERAL PROVISIONS

**1.1. SHORT TITLE.** This Ordinance, as amended from time to time, shall be cited as "The Santa Fe County Sustainable Land Development Code" and shall be referred to as "the SLDC."

**1.2. AUTHORITY.** The SLDC is promulgated pursuant to the authority set forth in Art. IX, X and XIII of the New Mexico Constitution (1912); NMSA 1978 § 4-37-1 (1975), NMSA 1978 §§ 3-21-1 *et seq.* (1965), NMSA 1978 §§ 3-19-1 *et seq.* (1965), NMSA 1978 §§ 3-18-1 *et seq.* (1965), NMSA 1978 §§ 19-10-4.1, 4.2 and 4.3 (1985), NMSA 1978, § 3-20-1 *et seq.* (1973), NMSA 1978, § 3-33-1 *et seq.* (1965), NMSA 1978, § 3-35-1 *et seq.* (1965), NMSA 1978, § 3-45-1 *et seq.* (1965), NMSA 1978, § 4-37-1 *et seq.* (1975), NMSA 1978, § 5-11-1 *et seq.* (2001), NMSA 1978, § 6-27-1 *et seq.* (2004), NMSA 1978, § 7-91-1 *et seq.* (2005), NMSA 1978, § 11-3A-1 *et seq.* (1994), NMSA 1978, § 47-5-1 (1963), NMSA 1978 §§ 47-6-1(1973), NMSA 1978, § 58-18-1 *et seq.* (1975), NMSA 1978 §60-13-1; and Federal Insurance Regulation 1910. The SLDC constitutes an exercise of the County's independent and separate but related law enforcement, zoning, planning, environmental, fiscal and public nuisance powers for the health, safety and general welfare of the County and its residents.

**1.3. EFFECTIVE DATE.** The SLDC shall become effective thirty (30) days after recordation of the SLDC and the accompanying zoning map.

**1.4. PURPOSE AND INTENT**.

**1.4.1.** The SLDC, including all amendments to the SLDC, are intended to implement and be consistent with the goals, objectives, policies, and strategies of the Sustainable Growth Management Plan (SGMP) through comprehensive, concurrent, consistent, integrated, effective, time limited and concise land development approvals. The SLDC is designed to protect and promote the health, safety and general welfare of the present and future residents of the County. The SLDC is a police power, public nuisance, environmental and land use regulation designed to establish separate land use, growth management, environmental, fiscal, adequate public facility, transportation, stormwater management, emergency service and preparedness, health and safety standards. The SLDC is designed to specifically provide protection of environmental, cultural, historical and archeological resources, lessening of air and water pollution, assurance and conservation of water resources, prevention of adverse climate change, promotion of sustainability, green development, and to provide standards to protect from adverse public nuisance or land use effects and impacts resulting from public or private development within the County.

**1.4.2. The SLDC Shall:**

**1.4.2.1.** Require that development approval for significant projects not be granted unless there is adequate on and off-site provision of capital facilities and services available to the development at levels of service established in the SGMP, the Capital Improvement Plan ("CIP") and the Official Map established pursuant to the SGMP;

**1.4.2.2.** Utilize a voluntary development agreement process, where appropriate, to assure that properties receiving development approvals are granted vested rights to assure completion of the project through all stages and phases under the provisions of the SLDC as they existed at the time of submission of a complete application for development approval without fear of being overridden by newly adopted regulations, in exchange for commitments to mitigate environmental degradation, advance adequate public facilities and services for needs generated by new development, to eliminate existing deficiencies and to proportionally meet county and regional facility and service needs;

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**1.4.2.3.** Establish sustainable design and improvement standards and review processes by which development applications shall be evaluated, including the preparation of environmental, fiscal impact, traffic, water availability, emergency service and response, consistency and adequate public facility and services studies, reports and assessments ("SRAs");

**1.4.2.4.** Require that development and administrative fees; dedications; public improvement district taxes, assessments, charges and fees; homeowner association assessments; public and private utility rates, fees and charges; development fees; and other appropriate mitigation fees and conditions that are required as conditions of development approval, be roughly or reasonably proportional to the need for adequate public facilities and services at adopted levels of service, the need for which is generated by the development at the time of development approval;

**1.4.2.5.** Designate appropriate zoning districts to implement the SGMP;

**1.4.2.6.** Designate sustainable development areas (SDA-1, SDA-2, and SDA-3) and identify appropriate regulations and incentives to encourage development within the SDA-1 priority growth areas;

**1.4.2.7.** Formulate guidelines to implement growth management, sustainable design and improvement standards, renewable energy strategies, techniques, and action programs and adopt appropriate budgets and capital improvement plan and programs to implement them;

**1.4.2.8.** Enhance the physical, cultural, social, traditional and environmental values treasured by County residents;

**1.4.2.9.** Provide for objective and fair administrative and quasi-judicial processes, findings and recommendations including, but not limited to, the establishment of a Hearing Officer process;

**1.4.2.10.** Establish rights for communities, community organizations, registered organizations, acequia associations, Tribal governments, adjoining property owners, neighborhood and homeowner associations and non-profit organizations with respect to attendance at pre-application meetings with applicants for development approval;

**1.4.2.11.** Accommodate within appropriate zoning districts, regulations for protection and expansion of local small businesses, professions, culture, art and crafts including live/work, home occupations and appropriate accessory uses in order to support a balanced, vigorous local economy;

**1.4.2.12.** Assure that a diversity of housing choices is available to residents within a wide range of economic levels and age groups;

**1.4.2.13.** Express and reflect the highly unique sense of place and the desirable qualities of Santa Fe County through innovative and sustainable design and architectural standards for development compatible with compact development and traditional and historic communities;

**1.4.2.14.** Restrict development within lands containing environmental, ecological, archaeological, historical or cultural sensitivity and preserve agriculture and ranch lands and utilize: clustering; use of purchase and transfer of development rights; federal and

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state income tax credits and deductions for donation of development and conservation easements; development of solar and wind resources and other incentives to maximize economic return and to preserve such resources to the maximum extent feasible;

**1.4.2.15.** Place high regard for the protection of individual property rights in appropriate balance with the community's need to implement the goals, objectives, policies and strategies of the SGMP;

**1.4.2.16.** Reconstitute the County Development Review Committee ("CDRC") as the County's statutorily authorized Planning Commission to carry out the statutory and SLDC duties and responsibilities for reviewing and recommending on amendments to the SGMP, Area, District and Community Plans, the Official Map, the CIP, the SLDC and for the hearing of applications for development approval;

**1.4.2.17.** Provide for special review of developments of countywide impacts ("DCIs");

**1.4.2.18.** Create planned development zoning districts ("PDDs") that reflect development patterns that promote walkable mixed use communities without the need for multiple variances or waivers from area, height or use requirements;

**1.4.2.19.** Provide a procedure for mandatory pre-application review of certain development projects, to afford an opportunity to meet with the developer, the opportunity to review and comment on the project, in order to assess the project's impacts on its surroundings and on the County's resources and to identify issues, solutions and mitigation measures;

**1.4.2.20.** Ensure that building projects are planned, designed, constructed, and managed: to minimize adverse environmental impacts; to conserve natural resources; to promote sustainable development; and to enhance the quality of life in Santa Fe County;

**1.4.2.21.** Prescribe sustainable design and improvement standards for all public and private buildings, structures and land uses;

**1.4.2.22.** Develop strategies, bonuses, incentives, transfers of development rights, tax credits, monetization of solar, wind and rain water recapture facilities to encourage priority infill development;

**1.4.2.23.** Respect historical patterns and boundaries in the development approval process for new development and redevelopment;

**1.4.2.24.** Require that new development reflect the transportation network of the region and provide a framework of inter-connectivity of the road network and pedestrian and bicycle systems;

**1.4.2.25.** Provide the opportunity for the establishment of a public improvement or assessment district or homeowner associations to finance the capital improvements necessary to meet adequate public facilities and service requirements, including the ongoing maintenance and operation of such facilities and services;

**1.4.2.26.** Provide the opportunity for appropriate building densities and land uses within walking distance of transit stops in SDA-1 through appropriate zoning; and

**1.4.2.27.** Require that new development provide a range of parks, open space and trails and community gardens within neighborhoods.

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**1.4.2.28.** Applications for discretionary development approval shall be required to provide the following as a pre-condition to approval:

**1.** Demonstrated consistency with the SGMP, and applicable Area, District and or Community Plans;

**2.** Provide certain Studies, Reports and Assessments (SRAs), depending upon the scope of the development proposed in the application, which SRAs may include: a Traffic Impact Assessment ("TIA"); an Adequate Public Facilities Assessment ("APFA "); a Fiscal Impact Assessment ("FIA"); a Water Service Availability Report ("WSAR"); and/or an Environmental Impact Report ("EIR").

**3.** In the case of developments of county-wide impact ("DCI"):

**a.** an Emergency Service and Preparedness Report, identifying the name, location and description of all potentially dangerous facilities and Material Safety Data Sheets describing all additives, chemicals and organics to be or currently used on the proposed development site, including but not limited to pipelines, wells and isolation valves, and providing for a written fire prevention, health and safety response plan for any and all potential emergencies, including explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide, methane or other toxic gas emissions or hazardous material spills or vehicle accidents; and

**b.** a Geo-hydrologic Report, describing any adverse impacts and effects of development with respect to groundwater resources located within geological formations in sufficient proximity to a development project; identifying fractured, faulted and any other formations that would permit extraneous oil, gas, dirty or grey water, rocks, mud or other toxic chemicals, minerals and pollutants to degrade the ground or subsurface water resources, or allow ground or subsurface water resources to be reduced, polluted and unavailable for public or private water supplies.

**1.5. FINDINGS.** The Board hereby finds, declares and determines that the SLDC:

**1.5.1.** Promotes the health, safety, and welfare of the County, its residents, and its environment by regulating development activities to assure that development does not create land use and public nuisance impacts or effects upon surrounding property, the County and the region;

**1.5.2.** Promotes the purposes of planning and land use regulation by assuring that adequate public facilities and services as defined by the SGMP and CIP including roads, fire, law enforcement and emergency response, stormwater detention, parks and recreation, open space, trails, public sewer and water, will be available on or off-site at the time of development approval;

**1.5.3.** Protects the County's priceless, unique, and fragile ecosystem and environmentally sensitive lands including but not limited to: waterways and streams, wetlands, floodways and flood plains; hillsides and steep slopes; flora and fauna habitats and habitat corridors; air and water quality; eco-tourist sites and scenic vistas; natural resources; and archaeological, cultural, and historical resources;

**1.5.4.** Requires vertical consistency of the SLDC and related land use, building, housing, public and private utility and environmental codes, with: the SGMP, Area, District and Community

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Plans; the CIP; the Official Map; and related regional, state and federal legislation, plans and programs;

**1.5.5.** Promotes sustainable development, green building and renewable energy standards and practices; and

**1.5.6.** Provides for efficient, comprehensive, concurrent and timely response to applications for development approval.

**1.6. APPLICABILITY.** The SLDC shall apply within the exterior boundaries of Santa Fe County. The SLDC shall not apply within the exterior boundaries of a municipality. The SLDC shall not apply to property owned by the United States or held by the United States in trust for a federally-recognized Tribal government, or to property owned by a member of a federally-recognized Indian Pueblo, Reservation or Pueblo and within the exterior boundaries of such federally-recognized Indian Pueblo, Reservation or Pueblo.

**1.7. ENACTMENT AND REPEALS**. Upon the effective date of the SLDC, the following are hereby repealed in their entirety: the Flood Prevention and Stormwater Management Ordinance, Ordinance No. 2008-10; Ordinance No. 2012-10, the Santa Fe County Land Development Code, Ordinance 1996-10, together with all amendments thereto (except Article III, Sec. ~~4~~ 5 "Mineral Exploration and Extraction"), ~~save and except Ordinances No. 2000-8, 2000-12, 2000-13, 2002-1, 2002-02, 2002-9, 2003-7, 2005-08, 2006-10, 2006-11, 2007-2, 2007-10, and 2008-5, which shall remain in effect to the extent they are consistent with the SGMP until amended following adoption of revised Community Plans that are consistent with the SGMP and the SLDC, together with all amendments thereto~~; the Wireless Communications Ordinance No. 2001-9, the water conservation Ordinance No. 2004-7 and the original Santa Fe County Land Development Code Ordinance No. 1980-6. Ordinance 2008-19 shall remain in effect until amended following adoption of Chapter 11, Developments of County Impact. To the extent there is any conflict between the SLDC and any land-use ordinance that is not repealed by this §1.7 or otherwise addressed in the SLDC, the provisions of the SLDC shall apply.

**1.8. SCOPE.** All publicly and privately owned buildings, structures, lands, land uses, capital improvements and capital infrastructure projects, including but not limited to city, county, school, authority, assessment or public improvement district, public or private utility, shall be subject to the SLDC where the County has jurisdiction arising under the laws and constitutions of the United States or the State of New Mexico.

**1.9. CONSISTENCY WITH SUSTAINABLE GROWTH MANAGEMENT PLAN.**

**1.9.1.** The Sustainable Growth Management Plan (SGMP) adopted by the Board is the County's General Plan. The SLDC shall be consistent with the SGMP. Adopted Area, District and Community Plans that are consistent with the SGMP shall be deemed to be a part of the SGMP or an amendment to the SGMP.

**1.9.2.** Any amendment to the SLDC shall be consistent with the SGMP and shall satisfy the consistency requirement only if such amendment fully complies with the goals, policies and strategies of the SGMP.

**1.10. COORDINATION WITH OTHER REGULATIONS.**

**1.10.1. Generally.** The use of buildings, structures and land is subject to all other County, state or federal statutes, ordinances or regulations as well as the SLDC, whether or not such other provisions are specifically referenced in the SLDC. References to other ordinances, statutes or regulations or to the provisions of the SLDC are for the convenience of the reader. The lack of a

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cross-reference does not exempt a land, building, structure or use from other ordinances, statutes or regulations.

**1.10.2. SLDC as Paramount Regulation.** Where a regulation or standard contained within the SLDC imposes more stringent criteria or standards than those required under another County ordinance or regulation, the regulation adopted under the SLDC controls. If the other County ordinance or regulation imposes higher standards, that ordinance or regulation controls so long as it is consistent with the purposes, findings and intent of the SLDC and with the goals, objectives, policies and strategies of the SGMP. Where a regulation or standard contained in State or Federal laws or regulations imposes less stringent standards than established in the SLDC, the SLDC shall apply.

**1.10.3. Rules of Construction.** Provisions of the SLDC are basic and minimum requirements for the protection of public health, safety, comfort, convenience, prosperity and welfare. The SLDC shall be liberally interpreted in order to further its underlying purposes, intent, criteria and standards and to implement the goals, objectives, policies and strategies of the SGMP. The meaning of any and all words, terms, or phrases in the SLDC shall be construed in accordance with Appendix A–Rules of Interpretation, Definitions and Acronyms which is incorporated herein by reference. The SLDC contains numerous tables, graphics, pictures, illustrations and drawings in order to assist the reader in understanding and applying the SLDC. To the extent there is any inconsistency between the text of the SLDC and any such table, graphic, picture, illustration or drawing, the text controls unless otherwise provided in the specific section.

**1.10.4. Minimum Requirements**. The SLDC establishes minimum requirements for land use and development. The issuance of any development approval or development order pursuant to the SLDC shall not relieve the recipient from the responsibility to comply with all other County, state or federal laws, ordinances or regulations.

## 1.11. TRANSITIONAL PROVISIONS.

**1.11.1 Effect of Zoning Map on Prior Zoning Approvals.** The Zoning Map adopted in conjunction with the SLDC shall incorporate zoning or rezoning of property actions completed prior to the effective date of the SLDC.

**1.11.2. Prior Development Permits and Approvals.** Except as otherwise provided in subsection 1.11.1, development permits and approvals previously granted by the Board, County Development Review Committee or the Administrator before the effective date of the SLDC for which rights have not vested (approved master plans, special exceptions, recognition of nonconforming uses, development plans, subdivisions, exception plats, and lot line adjustments) shall be henceforth governed by the SLDC.

**1.11.3. Permits and Approvals With Vested Rights.** Development ~~P~~permits and final approvals granted by the Board, County Development Review Committee or the Administrator prior to enactment of the SLDC for which rights have vested shall remain valid, and development and use of the property shall be allowed so long as the development and use is in accordance with the development permit and final approval.~~be recognized by the County.~~

**1.11.4. Approved Master Plans.** Properties that have received final approval of a master plan within five years of the effective date of the SLDC shall file an application for approval of a development plan, preliminary development plan or subdivision plat pursuant to this SLDC no later than one year after the effective date of the SLDC, or the approval of the master plan shall nevertheless expire. Any zoning established by an expired master plan shall be included in the Zoning Map as described in subsection 1.11.1 of the SLDC.

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**1.11.5. Approved Preliminary Development Plans or Plats.** Properties that have received preliminary development plan, subdivision approval or plat approval but have not received final development plan or plat approval, shall, within 24 months of said approval (or such other period as may be specified in Section 5.8.7. of the SLDC) file an application for approval of a final development plan or subdivision plat in accordance with that preliminary plan or plat or the approval of the preliminary development plan or plat shall expire and any application for development will be governed and processed according to the SLDC.

**1.11.6. Approved but Unrecorded Final Development Plans and Plats.**

**1.11.6.1.** Properties that have received final development plan or plat approval but have not recorded the plan or plat may complete the recordation process under the terms of the final approval.

**1.11.6.2.** Properties that have received final development plan or plat approval and have recorded the plan or plat shall apply for construction permits consistent with that plan or plat within 24 months or the approval will expire and standards established by the SLDC for approval of development shall apply to any application for development of the property.

**1.11.6.3.** Any subdivision for which a Preliminary Plat was approved prior to the effective date of the SLDC may be granted Final Plat approval if the Planning Commission and Board find that the final plat is in substantial compliance with the previously approved preliminary plat. Provided that, if the final plat approval is not received within 24 months of approval of the Preliminary Plat (or such other period as may be specified in Section 5.8.7.), shall file an application for approval of a final plat in accordance with the Preliminary Plat or the approval of the Preliminary Plat shall expire and any application for development will be governed and processed according to the SLDC.

**1.11.7. Previously Approved Subdivisions and Land Divisions.** Previously approved and platted land divisions and subdivisions, and the lots created thereby, shall be recognized as legally existing lots.

**1.11.8. Final Orders for Approved Applications.** Applications that have received final approval from either the Board or the CDRC and for which there is no further administrative review, shall have their final orders approved in accordance with the voice vote of either the Board or the CDRC.

**1.12. CONCURRENT PROCESSING.** Applicants are encouraged to concurrently submit applications for multiple approvals on a single project in order to facilitate, speed up and make more efficient the development approval process. However, each application shall individually comply with all applicable provisions of the SLDC, and if any individual application request is rejected or conditioned in such a way that the subsequent (in approval order) application request cannot reasonably proceed, then the processing of the subsequent application shall not proceed.

**1.13. PERIODIC REVIEW.** The Board shall periodically review the SLDC and make appropriate amendments. The Board shall review the SLDC at the time of adoption of the Zoning Map and six (6) months thereafter. The Administrator, the Planning Commission, other interested persons or groups may make recommendations to the Board for amendments to the SLDC.

**1.14. SEVERABILITY.** If any court of competent jurisdiction decrees that any specific provision of the SLDC is invalid or unenforceable, that determination shall not affect any provision not

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specifically included in the order or judgment. If any court of competent jurisdiction determines that any provision of the SLDC cannot be applied to any particular property, building, structure or use, that determination shall not affect the application of the SLDC to any other property, building, structure or use not specifically included in the order or judgment.

**1.15. SLDC TEXT AMENDMENTS OR ZONING MAP AMENDMENTS.** This section provides uniform procedures for amendments to the SLDC text or the zoning map.

**1.15.1. Applicability.** The provisions of this section shall apply to any application to:

**1.15.1.1.** Amend the text of the SLDC;

**1.15.1.2.** Amend the zoning map by reclassifying the zoning district of a tract, parcel or lot from one zoning district to another; or by reclassifying the zoning districts for areas, communities or countywide.

**1.15.2. Initiation.**

**1.15.2.1.** SLDC text or map amendments may be initiated by the Board, the Planning Commission, an owner/applicant, or the Administrator for specific tracts, parcels or lots requiring quasi-judicial hearings; or for the SGMP, an Area, District, Community Plan or countywide zoning map or SLDC text changes requiring legislative hearings.

**1.15.2.2.** No text or map amendments to the SLDC may be proposed by an owner/applicant unless accompanied by a complete application in a form established by the Administrator, which application may require a request by the owner/applicant for discretionary development approval on the same land meeting all requirements of the SLDC for such discretionary development approval.

**1.15.2.3.** No amendment to the SLDC text or zoning map requiring a quasi-judicial hearing that concerns a single tract, parcel or lot under common ownership, or where the affected land by is predominantly owned by a single person or entity under common ownership, shall be granted unless the Board makes a finding that there has been a substantial change in the conditions of the area surrounding the owner's property or an error or mistake in the SLDC text or zoning map; or the amendment is consistent with the SGMP and any applicable Area, District or Community Plans for the property.

**1.15.3. Legislative Hearings.** The Planning Commission and Board shall consider amendments to the SLDC during a public hearing. The hearing shall be conducted as a legislative hearing where the SLDC text or map amendment does not concern a single tract, parcel or lot under common ownership, or the land affected by the text or map amendment is not predominantly owned by a single person or entity under common ownership.

**1.15.4. Quasi-Judicial Hearings.** The public hearing before the Planning Commission and Board shall be quasi-judicial where the proposed SLDC text or map amendment has been filed by an owner/applicant; the text or map amendment concerns a single tract, parcel or lot under common ownership; or the land affected by the text or map amendment is predominantly owned by a single person or entity under common ownership.

**1.15.5. Decision.** After receipt of the Planning Commission's recommendation, the Board shall approve, conditionally approve or deny the map or text amendment. If the proposed map or text amendment is inconsistent with the General, Area, District, or Community Plan, the proposed amendment shall be denied unless a concurrent application for an amendment to the SGMP, Area, District or Community Plan has been submitted by the owner/applicant, the Board, the Planning

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Commission or the Administrator, and has been concurrently approved to eliminate any inconsistency.

**1.15.6. Approval Criteria.** In reviewing an application for an SLDC text or map amendment, the Board shall consider the criteria set forth in this subsection. No single factor is controlling; each must be weighed in relation to the other. The Board may attach to the development order approving or conditionally approving the application, any and all applicable conditions and mitigation requirements.

**1.15.6.1. Consistency.** An SLDC text or map amendment shall be consistent with the SGMP, Area, District or Community Plan, the Official Map and the CIP.

**1.15.6.2. Criteria.**

**1. Public Policy.** The Board has determined through the SGMP that vast acreages of contiguous single-use zoning produces uniform sprawl with adverse consequences, such as traffic congestion, air pollution, increased energy usage, fiscal impact, inadequate provision of public facilities and services, loss of environmentally sensitive land and ground water pollution. Accordingly, SLDC text or map amendments shall be granted primarily to promote compact development, economic, commercial and residential mixed uses, traditional neighborhood and transit oriented development, sustainable design and higher densities. Important public policies in favor of the SLDC text or map amendment shall be considered, including but not limited to:

**a.** the provision of a greater amount of affordable housing;

**b.** economic, non-residential and renewable energy development;

**c.** advancement of public facilities and services and elimination of deficiencies through use of voluntary development agreements;

**d.** traditional neighborhood, transit oriented, infill, opportunity center and compact mixed-use development;

**e.** substantial preservation of open space;

**f.** sustainable energy efficient construction and neighborhood design; and

**g.** consistency with the SGMP, Area, District or Community Plan goals, policies and strategies applicable to the property.

**2. Adverse Impacts on Neighboring Lands.** The Board shall consider the nature and degree of any adverse impacts upon neighboring lands. Tracts, parcels or lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive.

**3. Suitability as Presently Zoned.** The Board shall consider the suitability or unsuitability of the tract, parcel or lot for its use as presently zoned. This factor shall however, be weighed in relation to proof of a clerical mistake in the text or map dimensions and uses of the zoning district, substantially changed conditions in the area surrounding the property, or to effectuate the important findings of § ~~1.15.7.2~~1.15.6.2, and is supported by the goals, policies, and strategies of the SLDC, the SGMP, Area, District or Community Plan.

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**1.15.6.3. Subsequent Applications.**

**1. Applicability.** The provisions of this subsection do not apply to any SLDC text or map amendment that is initiated by the County.

**2. Amendments.** Any subsequent amendment to the SLDC text or map requires a new application and a new fee and shall be processed as set forth in this section.

**3. Scope of Approval.** No construction of a building or structure, grading, occupancy or use of the land shall be commenced without the owner/applicant obtaining all further required development approvals.

**4. Recording and Publication.** The amendment shall be recorded and published in accordance with law. When the amendment involves map changes to existing zoning district boundaries, the form of the amending ordinance shall contain a narrative description of the land to be reclassified or reference to an accompanying plat of such land, showing the new zoning classifications and designating the new boundaries. The Administrator shall refer to the attested ordinance as a record of the current zoning status until such time as the zoning map is physically changed.

**1.16. Rural Living In Santa Fe.** In rural areas of the County, residents should reference Resolution 2010-233 The Santa Fe County Version Of The Code Of The West, Known As Rural Living In Santa Fe County.

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# Chapter 2 – Planning

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# CHAPTER TWO – PLANNING

**2.1. PLANS AND PLAN AMENDMENTS.** This chapter establishes requirements and procedures for community participation and planning including adopting and amending certain County land use plans, including the SGMP and Area, District or Community Plans. A proposed amendment of the plans discussed in this chapter requires legislative Board approval, except where such amendment or approval applies solely or predominantly to a single parcel of land in common ownership, in which event the amendment or approval shall be processed as a quasi-judicial determination. All plans described in this chapter shall be in compliance with the SGMP, and upon adoption constitute amendments to the SGMP.

**2.1.1. The Sustainable Growth Management Plan (SGMP).** The SGMP shall serve as the constitution to the SLDC. Within the SGMP are the following plan elements relating to particular planning subjects:

**2.1.1.1.** A Sustainable Vision;

**2.1.1.2.** Land Use;

**2.1.1.3.** Economic Development;

**2.1.1.4.** Agriculture and Ranching;

**2.1.1.5.** Resource Conservation;

**2.1.1.6.** Open Space, Trails, Parks and Recreation Areas;

**2.1.1.7.** Renewable Energy and Energy Efficiency;

**2.1.1.8.** Sustainable Green Design and Development;

**2.1.1.9.** Public Safety;

**2.1.1.10.** Transportation;

**2.1.1.11.** Water, Wastewater and Storm Water Management;

**2.1.1.12.** Adequate Public Facilities and Financing;

**2.1.1.13.** Housing;

**2.1.1.14.** Governance; and

**2.1.1.15.** Implementation.

**2.1.2. Area Plans.**

**2.1.2.1.** An Area Plan covers a defined geographic area of the county and provides planning, design and implementation strategies consistent with the SGMP. Area Plans provide basic information on the natural features, resources, and physical constraints that affect development of the planning area. They also

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specify detailed land-use designation used to review specific development proposals and to plan services and facilities. An area plan may consist of goals, objectives, policies, and implementing strategies for capital improvement and service programs, zoning, subdivision regulation, official map, the level of service required for adequate public facilities and services; physical and environmental conditions; environmentally sensitive areas; cultural, historic and archeological resources, land-use characteristics of the area; and maps, diagrams, and other appropriate materials showing existing and future conditions. An area plan provides specific planning, design, and implementation, for the defined geographic area of the County to guide development applications, provision of governmental facilities and services, and to implement the official map, capital improvement and services programs, public and private utility and infrastructure plans, annexations, and creation of assessment and public improvement districts.

**2.1.2.2.** An Area Plan may be used to guide development applications, to develop facilities and services, infrastructure, annexation, assessment districts and other area needs.

**2.1.2.3.** An Area Plan is consistent with and is adopted as an amendment to the SGMP.

**2.1.2.4.** It is the intent of this subsection to establish a process for the adoption of an Area Plan directed by County planning staff following the procedures outlined in Section 2.1.4.5 as applicable.

**2.1.3. District Plans.**

**2.1.3.1.** A District Plan provides specific planning and design for single use and mixed use development specialized around a predominant activity. A District plan may contain specific planning and implementation steps and may be used to guide development applications, to develop facilities and services, infrastructure, annexation, assessment districts and other district needs.

**2.1.3.2.** A District Plan is consistent with and adopted as an amendment to the SGMP and any Area or Community Plan.

**2.1.3.3.** It is the intent of this subsection to establish a process for the adoption of an Area Plan directed by County planning staff following the procedures outlined in Section 2.1.4.5 as applicable.

**2.1.4. Community Plans.**

**2.1.4.1.** A Community Plan provides specific planning, design and implementation for a traditional, contemporary or other geographic community. A Community Plan may be implemented either through the zoning map or through creation of a community district overlay zone as specified in Chapter 9.

**2.1.4.2.** It is the intent of this subsection to permit communities to create a community planning process, directed by County planning staff. The community planning process is intended to provide diversity of representation during the planning process and provide consistency with the goals and policies of the SGMP and SLDC.

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**2.1.4.3.** The Community Plan is intended to identify development and growth impacts for an area and provide strategies and land use recommendations including a future land use plan consistent with the SGMP.

**2.1.4.4.** A Community Plan is intended to permit communities to recommend adoption of particular land use regulations based on the needs and goals of the community and shall conform to the procedures set forth in the SLDC, and to subsequently update plans as necessary due to changing circumstances.

**2.1.4.5. Area, Community, and District Planning Process.**

**1.** The community planning process is initiated by filing a letter of application with the Administrator. Alternatively, the Administrator may initiate the planning process *sua sponte*. The application shall include:

**a.** A list of members who are proposed to be the initial members of the planning committee, which shall include residents, property owners and business owners who are generally representative of the community;

**b.** An explanation of the conditions that justify undertaking the community planning process, or an explanation of conditions that justify amending an existing Community Plan; and

**c.** A map of the proposed community boundary, or, in the case of an application for amendment of an existing plan, a map of the existing community boundary and a map of the proposed community boundary where a change to the boundary is proposed.

**2.** The application shall be reviewed by the Administrator for completeness and referred to the Board of County Commissioners. If the application is approved, the Board shall, by resolution, establish the planning committee and, if the application is for a new planning area, establish the planning area. The Board shall approve the planning committee upon recommendation of the Administrator. Once the committee is approved, County planning staff may initiate planning activities. Additional persons may participate as members of the planning committee throughout the planning process without the necessity of appointment by the Board.

**3.** All planning sessions and activities shall be open to the public and advertised throughout the community and coordinated by County planning staff. Open discussion and diversity of opinion shall be encouraged. The Community Plan shall document resident, property owner and business owner participation and representation.

**4.** County planning staff in coordination with the planning committee shall develop a public participation plan that assures representation of a diverse cross section of the community. The public participation plan may include public meetings, surveys, establishment of topic specific subcommittees, outreach to community groups and interested parties.

**5.** County planning staff shall provide planning expertise and administrative support to the planning committee. The planning committee shall determine the planning process to be used and the basic guidelines for consensus decision-making.

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**6.** The planning committee shall work closely with County planning staff to develop and draft a Community Plan or amendment that is consistent with the SGMP.

**7.** To develop the Community Plan, the planning committee with support and guidance from County staff, shall accomplish each of the following tasks:

**a.** Compile an initial list of issues, present the list to the community, and take note of all feedback. Analyze all such feedback and make appropriate amendments to the list;

**b.** Describe and analyze the planning framework;

**c.** Develop community profile and provide demographic data of plan area;

**d.** Prepare a community vision statement, which shall be a clear statement of the desired future of the community;

**e.** Prepare a description of how the community fits within the development patterns within the context of the overall County;

**f.** Analyze the existing land use and zoning within the community and create a map depicting existing land uses and development patterns;

**g.** Analyze the local cultural and natural resources, including water quality and availability;

**h.** Examine the local infrastructure, including utilities, telecommunications, roads and traffic; and

**i.** Develop a land use plan and implementation strategies which includes a future land use map, proposed zoning and design standards (as applicable).

**2.1.4.6. Review and Adoption.**

**1.** County planning staff shall review and analyze the proposed plan for consistency with the SGMP.

**2.** Once the planning committee has accomplished all the tasks described in § 2.1.4.5.7, the proposed plan shall be referred to the Administrator for referral to appropriate County staff and outside review agencies.

**3.** The Administrator shall make a determination of consistency before the adoption process begins.

**4.** Once determined to be consistent, the planning committee, with the assistance of County staff, shall conduct no fewer than two (2) public meetings within the community on the draft community plan or amendment.

**5.** Notice of the public hearing shall be provided by publication once a week for two consecutive weeks in a newspaper of general circulation within the

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community, and by posting notices for at least two weeks prior to the public hearings in a conspicuous place in the community.

**6.** Following the completion of the public hearings, the Administrator shall review all comments received during the public hearings and make a recommendation on the proposed plan or amendment to the Planning Commission and the Board of County Commissioners.

**7.** The Board may approve the community plan as submitted, approve with amendments, or deny.

**2.1.4.7. Status of Community Plans.** After approval by the Board, a community plan shall constitute an amendment to the SGMP.

**2.1.4.8. Implementation.** Following approval of a Community Plan, County staff shall develop the appropriate overlay district(s) to implement the Community Plan.

**2.1.4.9. Periodic Review.** Each Community Plan will be reviewed periodically by the planning committee and County staff. The review will be made for recommendations for appropriate amendments and shall include at least one public meeting in the community. The recommendations of the planning committee and any recommendations received during the public meeting, and a recommendation of the Administrator, shall be presented to the Board of County Commissioners.

**2.1.5. Plan Amendments.**

**2.1.5.1.** The Board, the Planning Commission or the Administrator may initiate proposed amendments to the SGMP, Area, District or Community Plans. Amendments to an Area, District or Community Plan shall be accomplished through a procedure determined by the Administrator and may involve portions of Section 2.1.4.5, as applicable.

**2.1.5.2.** No amendment to the future land use maps of the SGMP, Area, District or Community Plan or the zoning map, involving a majority of the land within a single tract or parcel of land in the same ownership shall be adopted unless it is demonstrated that there has been a substantial change in the condition of the area surrounding the owner's property, or there was an error or mistake made in the adoption of the future land use or zoning map and shall be processed according to the procedures set forth in Chapter 4.

**2.1.5.3.** An application to amend any plan described in this Chapter shall be filed with the Administrator. All such applications shall be considered once a year. The Administrator shall collect all applications for such plan amendments from January 1 until December 31 of each calendar year, and shall submit the applications to the Planning Commission for consideration, beginning with the regular meetings of the Planning Commission held in January for processing.

**2.1.5.4.** The Administrator shall review the application and shall determine if the application is complete pursuant to the provisions of § 4.4.6. The Administrator shall inform the applicant of the status of the completeness of the application. If the Administrator determines that the application is incomplete, the application shall be returned to the applicant. The applicant shall be instructed in writing as to the reasons for the incompleteness of the application.

**2.1.5.5.** The Planning Commission shall hold either a legislative or quasi-judicial public hearing upon the proposed plan or zoning map amendment depending upon whether the

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proposed amendment is applicable only to a single development tract, parcel or lot or to a single parcel of land under common ownership which constitutes the majority of land affected by the proposed amendment, or whether the proposed amendment is applicable to multiple development tracts, parcels or lots.

**2.1.5.6.** In determining whether a proposed amendment shall be approved, the Planning Commission and Board shall consider the factors set forth in the SLDC, New Mexico judicial decisions and statutes. No Area, District or Community Plan amendment or SLDC zoning map amendment will be approved unless it is consistent with the SGMP or the applicable Area, District or Community Plan.

**2.1.5.7.** The applicant, and any person that could have proposed a plan amendment under this chapter, may appeal the decision of the Planning Commission to the Board so long as the person or the applicant files a written notice of appeal with the Administrator within ten (10) days of the date of the Planning Commission's development order or decision.

**2.1.5.8.** Approval of an amendment to the SGMP or Area, District or Community Plan does not authorize the use, occupancy, or development of property. The approval of a plan amendment shall require the applicant to apply for development approval pursuant to the provisions of the SLDC, which may occur concurrently with the plan amendment process.

**2.1.5.9.** The Board, Planning Commission or the Administrator shall initiate a county-wide review of future land-use maps of the SGMP, Area, District or Community Plan, and the zoning map, every three (3) to five (5) years.

**2.1.6. Consistency.** The SLDC and all amendments thereto shall be consistent with the SGMP and applicable Area, District or Community Plans, the CIP and the Official Map.

## 2.2. COMMUNITY PARTICIPATION.

### 2.2.1. Intent.

**2.2.1.1.** In accordance with the SGMP, the community participation provisions of the SLDC are designed to maximize public input in important decisions that affect the County, a community or neighborhood.

**2.2.1.2.** The establishment of Community Organizations (COs) and Registered Organizations (ROs) is intended to provide improved public participation and to provide an organized and fair process whereby public input may be received on applications for development and community development issues.

### 2.2.2. Community Organizations.

**2.2.2.1.** Community Organizations (COs) are hereby established.

**2.2.2.2.** A CO is a new or pre-existing association or organization that is recognized by resolution of the Board to represent a specified geographical area within the County.

**2.2.2.3.** A CO must file an application for recognition as a CO in order to be recognized by the Board as a CO. The application must be filed with the Administrator, and shall include all of the following:

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**1.** The name, address, telephone number and e-mail address of the person, who will be designated by the CO to receive notice from the County and to represent the CO in dealings with County staff,

**2.** A map or written description of the organization's geographical boundaries or geographical interests;

**3.** A list of the officers of the organization;

**4.** A signed copy of the relevant organizing documents of the CO;

**5.** Information concerning the organization's regular meeting location and date;

**6.** The date the organization was founded; and

**7.** The number of organization members.

**2.2.2.4.** The Administrator shall review the application and supporting materials, and shall make a recommendation to the Board which, in its sole discretion, may approve the application, deny it or approve it with conditions.

**2.2.2.5.** Once approved by the Board, the CO will have the following rights and responsibilities:

**1.** The right to receive notice and provide written recommendations for any discretionary development application pending within the geographic area designated in the resolution of the Board recognizing the CO or notice of any public hearing or public meeting concerning such application;

**2.** The right to participate in administrative adjudicatory proceedings pending within the area designated in the resolution of the Board recognizing the CO, and as such will, as appropriate, be permitted to present evidence and witnesses at a quasi-judicial hearing before the Board, Planning Commission, or Hearing Officer;

**3.** The right to receive notice, participate and make recommendations, as deemed appropriate by the Board, for any amendment to the SGMP, SLDC or an area or Community Plan, within the established geographical boundaries or interests of the CO;

**4.** The right to participate and make recommendations in the development of a community strategic work plan, studies, CIP, ICIP and public improvement and assessment districts, and levels of service for community infrastructure and services;

**5.** The right to coordinate with ROs, property owners, business owners and residents within the boundaries of the CO in matters related to a pending discretionary development review or administrative adjudicatory application;

**6.** The right to meet with the Administrator concerning matters of interest to the CO;

**7.** The right to participate in Town Hall meetings with the Administrator and appropriate County staff; and

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**8.** The right to participate in CO leadership retreats and training programs.

**2.2.3. Registered Organizations.**

**2.2.3.1.** Registered Organizations (ROs) are hereby established.

**2.2.3.2.** A Registered Organization ("RO") is any organization (unincorporated association, partnership, limited liability company, corporation) interested in development projects or other County activities. An RO may include an acequia or land grant association, assessment and public improvement districts, public or private utility, school district, homeowner association, or neighborhood association.

**2.2.3.3.** An RO must file an application for recognition as a RO in order to be recognized by the Administrator as an RO. The application must be filed with the Administrator, and shall include all of the following:

**1.** The name, address, telephone number and e-mail address of the person, who will be designated by the RO to receive notice from the County and to represent the RO in dealings with County staff;

**2.** A map or written description of the organization's geographical boundaries or geographical interests as appropriate;

**3.** A list of the organization's topic(s) of interest;

**4.** A list of the officers and members of the organization, including specifically phone numbers of officers and members of the RO;

**5.** A signed copy of the relevant organizing documents of the RO;

**6.** Information concerning the organization's regular meeting location and date;

**7.** The date the organization was founded; and

**8.** The number of organization members.

**2.2.3.4.** In order to preserve the autonomy and independence of COs and ROs, staff support will be limited to administrative functions in support of CO and RO rights, including providing notice, scheduling meetings and receiving comments.

**2.2.3.5.** The Administrator shall review the application and supporting materials, and in his/her sole discretion, may approve the application, deny it or approve it with conditions.

**2.2.3.6.** Once approved by the Administrator, the RO will have the following rights and responsibilities:

**1.** The right to receive notice and provide written recommendations for any discretionary development application pending within the geographic area designated or the topic(s) of interests disclosed in the RO application or notice of any public hearing or public meeting concerning such application;

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**2.** The right to receive notice and provide written recommendations for any application for, or an amendment of, a Development of Countywide Impact pending before the Administrator;

**3.** The right to receive notice, participate and make recommendations, as deemed appropriate by the Administrator, for any amendment to the SGMP, SLDC or an Area, District or Community Plan within the established geographical boundaries or interests of the RO;

**4.** The right to coordinate with COs, property owners, business owners and residents within the boundaries of the RO in matters related to a pending discretionary development review or administrative adjudicatory application;

**5.** The right to meet with the Administrator concerning matters of interest to the RO;

**6.** The right to participate in Town Hall meetings with the Administrator and appropriate County staff; and

**7.** The right to participate in RO leadership retreats and training programs.

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# Chapter 3 – Decision-Making Bodies

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# CHAPTER THREE – DECISION-MAKING BODIES

**3.1. PURPOSE AND FINDINGS.** The purpose of this chapter is to establish the authority of the Board, Planning Commission, Administrator and Hearing Officer.

**3.2. THE BOARD OF COUNTY COMMISSIONERS.**

**3.2.1. Specific Powers and Responsibilities.** The Board shall have the responsibilities set forth in the SLDC as well as all powers and duties conferred upon it by State Law. Accordingly, the Board shall have the following powers and duties:

**3.2.1.1.** To initiate legislative amendments to the SGMP, an Area, District or Community Plan;

**3.2.1.2.** To initiate legislative amendments to the text and maps of the SLDC including the zoning map;

**3.2.1.3.** Except where a final development order has been authorized to be issued by the Planning Commission or the Administrator, to approve, approve with conditions or deny specific applications for discretionary development approval, and issue development orders on matters receiving discretionary development approval;

**3.2.1.4.** To approve, approve with conditions or deny voluntary development agreements;

**3.2.1.5.** To legislatively adopt and amend the Official Map and CIP;

**3.2.1.6.** To legislatively establish assessment and public improvement districts or other districts;

**3.2.1.7.** To legislatively establish and amend schedules for administrative, application and consultant fees, dedications, development fees, money-in-lieu of land, affordable housing fees and security instruments, including but not limited to bonds, letters of credit and cash escrow deposits, for payment and performance of obligations;

**3.2.1.8.** To initiate litigation and seek equitable and legal remedies to enforce violations of the SLDC, voluntary development agreements and the terms and conditions of development approval and take such any other actions, including the settlement of actions, as is authorized by the SLDC, other ordinances, regulations and statutes;

**3.2.1.9.** To take such other action not expressly delegated exclusively to any other agency or official by the SLDC as the Board may deem desirable and necessary to implement the provisions of the SLDC and the SGMP;

**3.2.1.10.** To appoint members of the Planning Commission, Hearing Officers, and other boards and committees that it may create;

**3.2.1.11.** To the extent permitted by State law, to delegate to the Planning Commission the power, authority, jurisdiction and duty to enforce and carry out the provisions of law relating to planning, platting and zoning; as well as to retain as much of this power, authority, jurisdiction and duty as the Board deems appropriate; and

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**3.2.1.12.** To hear and rule on appeals from discretionary decisions of the Planning Commission.

**3.2.2. Action and Appeals.** The Board shall hold public hearings and issue development orders, on applications for legislative or discretionary development approval, except where a final development order is authorized to be issued by the Planning Commission. Where the Planning Commission has authority to issue a development order determining a matter, the Board shall have appellate authority to review such development order if an appeal is properly perfected by the Administrator, the owner/applicant, or any other person or entity with standing to appeal the development order, no more than thirty (30) days from the date of the development order.

**3.2.3. Conflict of Interest: Quasi-Judicial Proceedings**. A member of the Board of County Commissioners shall not vote or participate in any discretionary development matter pending before the Board as specified in County Code of Conduct.

## 3.3. PLANNING COMMISSION.

**3.3.1. Creation and Responsibilities**. There is hereby created a County Planning Commission ("Planning Commission") which shall have the responsibilities and duties specified in the SLDC and in NMSA 1978, § 3-19-1 et. Seq. (1965)(as amended) and NMSA 1978, § 3-21-1 et seq. (1965) (as amended) .

**3.3.2. Duties and Powers of the Planning Commission.** The duties and authority of the Planning Commission are as follows:

**3.3.2.1.** To perform the functions specified in NMSA 1978 §§ 3-19-1 and 3-21-7 (1965);

**3.3.2.2.** To review and recommend to the Board, for adoption, text and map amendments to the SLDC, SGMP amendments and the adoption and amendment of an Official Map, a Capital Improvement Plan ("CIP") and other programs for public improvements and services and financing;

**3.3.2.3.** To hold public hearings and prepare written recommendations to the Board on certain discretionary development approvals subject to appeal to the Board;

**3.3.2.4.** To hold public hearings and recommend action on an Area, District or Community Plan, preliminary and final development orders, and quasi-judicial discretionary development applications;

**3.3.2.5.** To hold public hearings and take final action and issue development orders regarding applications for variances and conditional use permits; and

**3.3.2.6.** To enter upon any land that is the subject of an application that is the subject of this ordinance, make examinations and surveys, and place and maintain necessary monuments and markers upon the land pursuant to NMSA 1978 § 3-19-4, upon reasonable notice of not less than seventy two (72) hours to the owner/applicant or designated agent of the land to be entered, and after adoption of an order authorizing the time, place and location of the entry onto land or site examination.

**3.3.2.7.** To make decisions on appeals from final decisions of the Administrator.

**3.3.3. Membership and Terms.**

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**3.3.3.1. Number; Appointments; Residency**. The Planning Commission shall consist of seven (7) members, appointed by the Board. Planning Commission members shall be registered voters of the County. One member shall reside in each of the Commission Districts in order to provide diversity of representation; the remaining members shall be at large and may reside in any area of the County and be nominated by any Commissioner.

**3.3.3.2. Terms and Removal.** The initial members of the Planning Commission shall be the current members of the County Development Review Committee, who shall serve out their remaining terms. Thereafter, terms of members of the Planning Commission shall be for two (2) years or until their successors are appointed. Three (3) members shall be appointed in even numbered years and four (4) members shall be appointed in odd numbered years. Members shall serve for no more than three (3) consecutive terms. Members may be removed by the Board after a public hearing solely for reasonable cause set forth in writing and made part of the public record.

**3.3.3.3. Vacancies.** The Board shall appoint a person to fill a vacancy as soon as practicable after the vacancy is created.

**3.3.4. Conduct of Planning Commission Business.**

**3.3.4.1. Officers; Quorum; Rules of Order.** The Planning Commission shall follow the Rules of Order established by the Board for the conduct of meetings in the County.

**3.3.4.2. Meetings.** The Planning Commission shall meet at least once a month. All meetings of the Planning Commission shall be open to the public. Notice of such meetings shall be given in accordance with the applicable Board approved resolution establishing statutory notice for public meetings.

**3.3.4.3. Minutes and Other Records.** The County Clerk shall keep minutes of the proceedings of the Planning Commission, which shall reflect the vote on each matter put to a vote or, if a member is absent or fails to vote, reflect such fact; and such other records as are necessary to memorialize its transactions, findings, recommendations, resolutions, determinations and development orders, all of which shall be filed in the Office of the County Clerk.

**3.3.4.4. Conflict of Interest.** A member of the Planning Commission shall not vote or participate in any discretionary development matter pending before the Planning Commission as specified in County Code of Conduct.

**3.3.4.5. Recommendations and Development Orders**. The Planning Commission shall not make a recommendation or take final action on any matter without first considering evidence received from the Administrator, planning staff, a Hearing Officer, or owner/applicant, reports of the pre-application neighborhood meeting, other persons with standing, Tribal governments, and other County, regional, state or federal departments or agencies, as determined by law.

**3.4. ADMINISTRATOR.**

**3.4.1. Appointment.** A person shall be appointed by the County Manager to serve as the Administrator. Where the SLDC assigns a responsibility to the Administrator, the Administrator may delegate that responsibility to any employee of the County.

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**3.4.2. Responsibilities.** The Administrator shall have the responsibility to administer and enforce the provisions of the SLDC, make advisory opinions on the interpretation of the SLDC, the SGMP, an Area, District or Community Plan, hold and determine the adequacy of security instruments and issue ministerial development orders as set forth in the SLDC, subject to appeal to the Planning Commission. The Administrator shall make a reasonable interpretation of the SLDC that is not inconsistent with the SGMP.

**3.4.3. Technical Advisory Committee.**

**3.4.3.1. Appointment; Responsibilities**. A Technical Advisory Committee (TAC) is hereby created, the members of which may be appointed by the Administrator. The TAC shall assist the Administrator as requested with review of applications.

**3.4.3.2. Members**. The TAC may include representatives, as appropriate, from all County departments. In addition and as appropriate, the TAC may include, for a specific development approval application, representatives of school districts, cities, Tribal governments, public and private utilities, assessment or public improvement districts, acequia associations, regional, state or federal agencies and persons possessing necessary technical expertise.

**3.4.3.3. Meetings.** The TAC shall meet regularly as required at the request of the Administrator. An owner/applicant shall appear before the TAC prior to filing an application as provided by the Administrator and the SLDC.

## 3.5. HEARING OFFICER.

**3.5.1. Establishment.** The SLDC hereby establishes the position of Hearing Officer for the purpose of assisting in the adjudication of quasi-judicial applications for discretionary development approval. More than one (1) Hearing Officer may be appointed, as appropriate.

**3.5.2. Referral of Matters for Hearing.**

**3.5.2.1.** Applications shall be referred to a Hearing Officer to conduct public hearings, make written findings of fact, conclusions of law and recommendations, and file written reports with such findings, conclusions of law and recommendations to the Planning Commission or Board for further action, in the matters designated in Table 4-1.

**3.5.2.2.** The Administrator, the Planning Commission, or the Board may refer other matters to a Hearing Officer, as appropriate.

**3.5.3. Term and Removal.** A Hearing Officer or Hearing Officers shall be appointed by the Board for a definite term, not to exceed four (4) years, and may be re-appointed at the conclusion of any term. A Hearing Officer may be removed by the Board solely for reasonable cause. Reasonable cause for removal of a Hearing Officer shall include, but not be limited to, violations of the standards set forth in the New Mexico Code of Judicial Conduct, as adopted by the New Mexico Supreme Court.

**3.5.4. Qualifications.** A Hearing Officer shall have a J.D. degree from a law school certified by the American Bar Association or Association of American Law Schools, with not less than six (6) years of legal experience, and shall be licensed to practice law in New Mexico for a period of not less than three (3) years. A Hearing Officer shall not hold other appointed or elective office or position in government during his/her term.

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**3.5.5. Powers and Duties.** A Hearing Officer shall have all powers necessary to conduct quasi-judicial hearings assigned to a Hearing Officer by the SLDC.

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# Chapter 4 – Procedures

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# CHAPTER FOUR – PROCEDURES

**4.1. PURPOSE AND FINDINGS.** The purpose of this chapter is to designate the procedures for filing and processing applications. It is formatted to allow users to quickly and efficiently ascertain the various steps involved in processing applications, from the initiation and filing of an application, review for completeness and compliance with SLDC standards, through public hearings, determination and appeal. The first part of this chapter describes the standards and procedures common to processing most application requests. Procedural requirements for specific types of applications are set out in Table 4-1. Chapter provides specific review and approval requirements for conditional use permits, variances and beneficial use and value determinations.

**4.2. APPROVAL REQUIRED.** No change in use shall be made, no land division, subdivision, construction, land alteration, land use or development activity and no building or structure shall be erected, added to, or structurally altered or occupied unless all applicable development approvals and the appropriate development order are obtained in accordance with this chapter. Development orders are required for land division, subdivision, construction, land alteration, land use or development activity to ensure compliance with the SLDC, other County ordinances and regulations and applicable state and federal laws and regulations.

**4.3. CATEGORIES OF DEVELOPMENT PROCEEDINGS.** There are three basic types or categories of proceedings authorized in the SLDC, which are Legislative, Quasi-Judicial and Ministerial:

**4.3.1. Legislative.** Legislative proceedings involve a change in land-use policy by the Board upon recommendation of the Planning Commission, including adoption of any change in the SGMP or adoption of any change to an Area, District or Community Plan; adoption of or any amendment to the text of the SLDC, the CIP or the Official Map; and approval of any voluntary development agreements that apply either countywide or to a large number of properties under separate ownership. A public hearing is required but the procedural requirements of a quasi-judicial hearing do not apply.

**4.3.2. Quasi-Judicial Proceedings.** A quasi-judicial proceeding involves the use of a discretionary standard, as specified in the SLDC, to an application for discretionary development approval that is applicable to specific land in common ownership or to an area of land in which the predominant ownership is in a single ownership. Quasi-judicial discretionary proceedings require a public hearing consistent with the standards of procedural due process as established in § 4.8. In making quasi-judicial decisions, the Board, Planning Commission or Hearing Officer shall investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, make written findings of fact, conclusions of law and recommendations and exercise discretion of a judicial nature. In the land-use context, these quasi-judicial decisions generally involve the application of land-use policies to individual properties in common ownership as opposed to the creation of policy. These decisions require an exercise of discretion in applying the requirements and standards of the SLDC, state and federal law.

**4.3.3. Ministerial Development Proceedings.** Ministerial development proceedings involve nondiscretionary application of the standards of the SLDC to an application. A public hearing is not required for action on an application for ministerial development approval.

**4.4. PROCEDURAL REQUIREMENTS.**

**4.4.1. In General.** This section describes the procedural elements applicable to the various types of applications. Generally, the procedures for all applications have the following common

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elements, although individual procedures may not apply to every application type. A more detailed explanation of the procedural elements follows.

**4.4.1.1.** Pre-application meeting with the County Technical Advisory Committee (TAC) and pre-application neighborhood meeting;

**4.4.1.2.** Submittal of a complete application, including required fees, appropriate affidavits, plats, site development plans, variances requested, and Studies, Reports and Assessments specified in Chapter 6;

**4.4.1.3.** Review of the application by the Administrator and a determination that the application is complete or incomplete;

**4.4.1.4.** As appropriate, referral of application to State and Tribal review agencies for review and response;

**4.4.1.5.** Staff review, and as appropriate, take final action to make recommendation to the Planning Commission or the Board;

**4.4.1.6.** Notice and publication for applications requiring a public hearing;

**4.4.1.7.** As appropriate, public hearing before the Hearing Officer, Planning Commission, or Board;

**4.4.1.8.** Issuance of a development order approving, approving with conditions, or denying the application, together with written findings describing and supporting the action adopted;

**4.4.1.9.** Any appeal of the development order; and

**4.4.1.10.** Any application for beneficial use or value determination (BUD).

**4.4.2. Procedures Required for Each Application Type.** The specific procedural requirements for each type of application are set forth in Table 4-1.

**4.4.3. Pre-Application TAC Meeting.** Applicants required to conduct a pre-application meeting with the Technical Advisory Committee prior to filing an application. During the meeting, the applicant will discuss the application in general but in enough detail so that a reasonable assessment can be made of its compliance with the SLDC. The meeting should include a discussion of requirements of the SLDC that are applicable to the application, the procedure to be followed, notice to be provided, schedule for review and hearing, the studies, reports and assessments to be undertaken, and other relevant subjects. Technical requirements may also be discussed. After the meeting, County staff will provide the applicant with a written summary of the relevant issues to be covered by the applicant in its submittal materials.

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## Table 4-1: Procedural Requirements by Application Type

| Application Type | Discretionary Review? | Application Requirements | | | Review/Approval Process | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | Pre-application TAC meeting | Pre-application neighborhood meeting | Studies, reports, assessments | Agency review | Approval by Administrator | Hearing Required? | | |
| | | | | | | | Hearing Officer | Planning Commission | BCC |
| Development permit: Residential | no | no | no | no | as needed | yes | no | no | no |
| Development permit: non-residential, mixed use & multi-family | ~~yes~~no | yes | as needed | see Table 6-1 | as needed | yes | no | no | no |
| ~~Exempt l~~Land divisions, subdivision exemptions and other plat reviews | no | no | no | no | as needed | yes | no | no | no |
| Family transfer | no | no | no | no | as needed | yes | no | no | no |
| Temporary use permit | no | no | no | no | as needed | yes | no | no | no |
| Minor subdivision - final plat, 5 or fewer lots | ~~yes~~no | yes | no | see Table 6-1 | as needed | yes | no | no | no |
| Minor subdivision – final plat, more than 5 lots | yes | yes | no | See Table 6-1 | As needed | no | no | no | yes |
| Major subdivision - preliminary plat | yes | yes | yes | see Table 6-1 | yes | no | no | no | yes |
| Major subdivision final plat | ~~no~~yes | yes | No | no | no | no | no | no | yes |
| Conceptual plan for subdivision – phased or over 24 lots, phased MU, I, IL, CG, CN | yes | yes | Subdivision – yes Others - no | See Table 6-1 | As needed | no | no | no | yes |
| Conceptual plan PDD, CCD | yes | yes | yes | See Table 6-1 | yes | no | yes | yes | yes |
| Vacation of subdivision plat | yes | no | no | no | as needed | no | no | no | yes |
| Conditional use permit | yes | yes | as needed | see Table 6-1 | as needed | no | yes | yes | no |
| DCI Conditional use permit | yes | yes | yes | yes | yes | no | yes | yes | no |
| Variance | yes | yes | as needed | no | as needed | no | yes | yes | no |
| Time Extension | yes | no | no | As needed | As needed | No | No | No | yes |
| Planned development district | yes | yes | yes | see Table 6-1 | yes | no | yes | yes | yes |
| Overlay zones | yes | yes | yes | no | as needed | no | yes | yes | yes |
| DCI overlay zones | yes | yes | yes | yes | yes | no | yes | yes | yes |
| Zoning map amendment (rezoning) | yes | yes | yes | see Table 6-1 | as needed | no | yes | yes | yes |
| Text amendment | yes | yes | no | no | as needed | no | no | yes | yes |
| Area, District Community Plan, or Plan Amendment | yes | yes | yes | no | as needed | no | no | yes | yes |
| ~~Development of countywide impact~~ | ~~yes~~ | ~~yes~~ | ~~yes~~ | ~~see Table 6-1~~ | ~~yes~~ | ~~no~~ | ~~yes~~ | ~~yes~~ | ~~yes~~ |
| Beneficial use determination | yes | yes | no | no | no | no | yes | no | yes |
| Appeals | See Sec. 4.5 | no | no | no | no | no | no | See Sec. 4.5 | See Sec. 4.5 |

**4.4.4. Pre-Application Neighborhood Meeting.** A pre-application neighborhood meeting shall be conducted as specified in Table 4-1.

**4.4.4.1. Notice of Pre-Application Meeting.** The following entities and persons shall be invited by a letter sent first class mail, return receipt requested 15 days prior to the pre-application meeting:

**1.** The applicable CO and/or RO (see § 2.2).

**2.** Property owners entitled to notice of the application as required in § 4.6;

**4.4.4.2. Where Held.** The meeting shall be held at a convenient meeting space near the land that is the subject of the application.

**4.4.4.3. When Conducted.** The pre-application neighborhood meeting shall take place after the pre-application TAC meeting and prior to filing of the application.

**4.4.4.4. Materials for the Pre-Application Neighborhood Meeting.** The applicant shall prepare an adequate number of the plans described below of the proposed development in rough format to present during the meeting. Plans should include: the boundary lines of the development; the approximate location of any significant features, such as roadways, utilities, wetlands, floodways, hillsides, trails and open space and existing buildings or structures; the proposed uses for the property; the number of dwelling units and approximate square footage for non-residential uses; and the proposed layout including open space, location of buildings, roadways, schools and other community facilities, if applicable.

**4.4.4.5. Report on Pre-Application Neighborhood Meeting.** At the time of application, the applicant shall furnish a written report to the Administrator on the pre-application neighborhood meeting. At a minimum, the report shall include:

**1.** date and location of the neighborhood meeting or meetings;

**2.** a list of persons and organizations invited to the meeting;

**3.** a copy of the notice of pre-application meeting issued together with return receipts from letters mailed;

**4.** a list of persons and organizations who attended the pre-application meeting;

**5.** a copy of all materials distributed at the neighborhood meeting;

**6.** a summary of all concerns, issues and problems identified at the meeting, including how the applicant has addressed or intends to address the concerns and whether the applicant is unable to address them. Specific attention should be paid to any conditions or mitigating measures agreed to at the meeting.

**4.4.4.6.** Applicant shall bring to any public hearing determining that applicant's application at least three sets of documents handed out or displayed during the Neighborhood Meeting which shall be put on display for members of the public attending such hearings.

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**4.4.4.7.** Any CO, RO or person entitled to notice of the application shall also have the right to furnish a written report to the Administrator.

**4.4.4.8.** County staff shall not be expected to attend any pre-application neighborhood meetings.

**4.4.4.9.** The applicant may hold a land use facilitation meeting to address concerns from the neighborhood pre-application meeting.

**4.4.5. Application.**

**4.4.5.1. Application Form.** A completed application form, on a form provided by the Administrator, shall be submitted to the Administrator before an application will be considered.

**4.4.5.2. Attachments.** Before an application will be considered or processed it shall contain all required attachments and submittals.

**4.4.5.3. Fees.** Before an application will be deemed complete for consideration, all required application fees as set forth in the Board-approved Permit and Review Fee Ordinance shall be paid to the Administrator.

**4.4.5.4. Public Access.** All complete applications submitted to the Administrator shall be placed on file and made available to the public; provided that, any information concerning the location of archeological resources shall be removed from the application packet and not be available to the public pursuant to § 18-6-11.1 of the Cultural Properties Act.

**4.4.6. Completeness Review.**

**4.4.6.1. Scope.** All applications shall be reviewed by the Administrator for completeness.

**4.4.6.2. Completeness Review Determination.** The Administrator shall issue a written determination on completeness after review of an application and attachments within fourteen (14) days, which may be extended an additional ten (10) days if determined to be necessary by the Administrator due to the complexity of the application.

**4.4.6.3. Determination that an Application is Incomplete.** If the Administrator determines that the materials submitted to the review agency or department in support of the application are not complete, any completeness determination may be revised by the Administrator and the applicant shall be notified in writing of the information required. The owner/applicant may resubmit the application with the information required by the Administrator. The owner/applicant shall not be required to pay any additional fees if the application is resubmitted or the Administrator's decision is appealed within six months.

**4.4.6.4. Determination Constitutes a Final Development Order.** The final determination of the Administrator on completeness of an application constitutes a final development order and is appealable to the Planning Commission.

**4.4.6.5. Review by the Planning Commission.** The Planning Commission shall issue a final development order on any appeal of a completeness determination of the Administrator at its next available meeting. The development order on completeness,

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issued by the Planning Commission upon any appeal, shall be final and not be appealable to the Board.

**4.4.6.6. Further Information Requests.** After the Administrator or the Planning Commission accepts a development application as complete, the Administrator, the Hearing Officer, the Planning Commission or the Board may, in the course of processing the application, request the owner/applicant to clarify, amplify, correct, or otherwise supplement the information required for the application, if such is required to render a final development order on the merits.

**4.4.7. Agency Review and Opinions.** Except as otherwise provided in § 5.7.5 (agency review of major subdivisions), the Administrator shall refer applications, as appropriate, to the following federal, State or County agencies for completeness review, substantive review and opinions:

**4.4.7.1.** the Office of the New Mexico State Engineer (OSE);

**4.4.7.2.** the New Mexico Environment Department (NMED);

**4.4.7.3.** the New Mexico Department of Transportation (NMDOT);

**4.4.7.4.** the applicable Soil and Water Conservation District;

**4.4.7.5.** the State Historic Preservation Office (SHPO);

**4.4.7.6.** a Tribal Government within Santa Fe County; and

**4.4.7.7.** Any County Departments and other public agencies that the Administrator deems necessary to assist the Administrator and staff to determine compliance with this and other relevant Ordinances.

**4.4.7.8.** The County may hire qualified technical experts to review any application submitted at the expense of the applicant in accordance with the approved fee schedule.

**4.4.8. Land Use Facilitation.**

**4.4.8.1 Purpose.** Land use facilitation is intended to provide a means of communication between an applicant proposing a development, and persons that would be impacted by the proposed development. Land use facilitation provides an opportunity for the applicant and residents to exchange information, ask questions, and discuss concerns about the proposed development.

**4.4.8.2. In General.** Land use facilitation uses a professional facilitator to assist the applicant and residents to discuss issues related to the proposed development, identify and achieve goals and complete tasks in a mutually satisfactory manner. The process uses a facilitator, who will focus on the process and assist and guide the participants in principles of dispute resolution and decision-making. The facilitator is impartial to the issues being discussed, has no advisory role in the content of the meeting, and has no interest in the outcome of the meeting.

**4.4.8.3. Types of Cases Referred.** In general, any application which presents controversy, in which residents have questions or concerns, or that the applicant feels is appropriate for facilitation, may be referred to facilitation.

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**4.4.8.4. General Process.**

**1. Referral.** An application may be referred to a land use facilitation by the Administrator or the applicant. A matter may also be referred to land use facilitation following the TAC meeting but, more likely, will be referred to land use facilitation coincidentally with the finding of completeness.

**2. Assignment of a Land Use Facilitator.** The Administrator shall assign a case referred to facilitation to a land use facilitator contracted or employed by the County. Any facilitator selected for a given case shall have no interest in the case and shall not be an employee of Santa Fe County.

**3. Initiation of Process.** The facilitator shall contact the applicant and relevant persons affected by the proposed development to determine the level of interest in a facilitated meeting. If the Administrator is aware of a Community Organization or Registered Organization in the vicinity of the proposed development, the facilitator shall contact the Community Organization or Registered Organization. If there is no interest in a land use facilitation or if there is no person affected by the proposed development, the facilitator shall generate a "no facilitation held" report and refer the matter back to the Administrator.

**4. Facilitation.** If interest exists, the facilitator shall schedule a facilitation. During the facilitation, the applicant shall present the proposed project, followed by a presentation (if any) of residents or homeowners associations, followed by a discussion among the participants. The facilitator shall record comments, questions, concerns and areas of agreement among the parties.

**5. Report and Completion of Process.** Following the facilitation, the facilitator shall generate a complete and neutral report on the facilitation. All areas of agreement shall be highlighted, and areas of severe disagreement also noted. The report shall be distributed to the Administrator and all participants in the facilitation. Areas in which agreement was reached during the facilitation shall be reported as resolved in the staff report to the decision maker.

**6. Timeline.** The facilitation described in this subsection shall be completed no later than thirty (30) days from the date of referral, unless waived by the applicant.

**7. Costs of Facilitation.** All the costs of facilitation shall be paid by the applicant. Following completion of the facilitation, the Administrator shall present a invoice to the applicant.

**4.4.9. Review and Final Action by the Administrator.** Within ten (10) days of the receipt of all necessary referral comments, or as soon thereafter as possible, the Administrator shall complete the review. If an application has been referred for agency or department review under § 4.4.7 and referral comments have not been received by the Administrator within thirty (30) days, then the Administrator shall complete the application review absent the comments. Provided however, that if a referral agency indicates in writing to the Administrator that more time is needed to complete its review, the Administrator may extend time for completing his/her application review by an additional fifteen (15) days. Following completion of the review, the Administrator may take final action, make the appropriate recommendation to the Planning Commission or the Board, or may take other appropriate action. The Administrator may, in the Administrator's discretion, refer an Application that is committed to the Administrator's authority

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for review and final action to the Planning Commission or the Board. Consistent with Chapter 12 herein, all final actions on applications for approval shall contain a finding as to whether the application addresses the adequacy of public facilities and services associated with the proposed development. Failure to meet the adequate public facilities and services requirements in Chapter 12, either because both the proposed development is located in a sustainable development area other than SDA-1 and adequate public facilities are not available, or because a level of service is not met, may result in an application being denied.

**4.4.10. Review and Final Action by the Planning Commission or the Board.** Upon receipt of a complete application and appropriate recommendation of the Administrator or the Hearing Officer in the seven categories indicated in Table 4-1 where the Hearing Officer may be used to conduct a hearing, the Planning Commission or the Board shall review the application for compliance with the SLDC and other applicable law. Following completion of the review and following a public hearing on the application, the Planning Commission or the Board in the categories indicated in Table 4-1 requiring the Board review/approval, may take final action, make the appropriate recommendation or take other appropriate action.

**4.4.11. Conditions.** In acting upon an application, the decision-making body shall be authorized to impose such conditions upon the application as allowed by law and as may be necessary to reduce or minimize any potential adverse impact upon other property in the area or to carry out the general purpose and intent of the SLDC, so long as the condition relates to a situation created or aggravated by the proposed use and is roughly proportional to its impact.

**4.4.12. Notice of Decision.** Written notice of a final decision of the Administrator to approve or approve with conditions pursuant to NMSA 1978, Sec. 39-3-1.1 shall constitute the issuance of the permit. Written notice of a final decision of the Administrator to deny an application shall be provided to the Applicant and a copy shall be filed in the office of the Administrator. If an Application has not been approved, the specific reasons for disapproval shall be indicated in the written notice.

**4.4.13. Findings of Fact, Conclusions of Law.** Written notice of a final decision of the Planning Commission or the Board to approve, or approve with conditions, an application pursuant to NMSA 1978, Sec. 39-3-1.1 , which can be in the form of a development order, shall constitute the issuance of the permit. Staff or the Hearing Officer where one is used as indicated in Table 4-1, shall prepare findings of fact and conclusions of law pursuant to NMSA 1978, Sec. 39-3-1.1 to document final action taken on each application. Such findings and conclusions shall be approved by the decision-making body and filed with the County Clerk.

**4.4.14. Reapplication.** After final action, denial or abandonment of an application, another Application shall not be filed within two years of the date of final action, denial, or abandonment unless the new application is materially different from the prior application (e.g., a new use, a substantial decrease in proposed density and/or intensity).

**4.4.15. Withdrawal; Subsequent Applications.** An application may be withdrawn by the applicant at any time. However, if an applicant withdraws the application after a public hearing has been noticed in compliance with the SLDC and state law, an application requesting substantially the same use on all or part of the same described land shall not be considered or reconsidered within twelve (12) months of withdrawal.

## 4.5. APPEALS.

**4.5.1. Applicability.** Any person with standing may appeal a development order to the Planning Commission or Board, as designated in this chapter.

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**4.5.2. Appeals of an Administrative Decision of the Administrator.** An aggrieved person with standing may appeal the decision of the Administrator to approve, deny or approve with conditions an application. An appeal from a decision of the Administrator shall be filed in writing with the Administrator within five (5) working days of the date of the decision. If no appeal is filed within five (5) days, the decision of the Administrator shall be final and not subject to further appeal, review or reconsideration. The timely filing of an appeal shall stay further processing of the application unless the Administrator certifies to the Planning Commission that special circumstances exist.

**4.5.3. Appeals of Subdivision Decisions Under Summary Review.** Any person with standing who is or may be adversely affected by a decision approving or disapproving a final plat under summary review must appeal the decision to the Board within five (5) working days of the decision. The Board shall hear the appeal and shall render a final decision.

**4.5.4. Appeal of a Final Decision of the Planning Commission.** Any party with standing may appeal a final decision of the Planning Commission to the Board. The application seeking an appeal of a decision of the Planning Commission must be filed with the Administrator. An appeal from a decision of the Planning Commission must be filed within thirty (30) working days of the date of the decision and recordation of the final development order by the Planning Commission. The application shall be forwarded by the Administrator to the Board. The Administrator shall provide to the Board a copy of the record of the proceedings below of the decision appealed. The appeal shall be placed on the docket of the Board for consideration on the next available agenda. An appeal of the decision of the Planning Commission shall be reviewed *de novo* by the Board. The timely filing of an appeal shall stay further processing of the application unless the Board determines that special circumstances exist.

**4.5.5. Appeals of Board Decisions.** Any person aggrieved by a final decision of the Board pursuant to this section may appeal to District Court in accordance with NMSA 1978, § 39-3-1.1 (as amended) and Rule 1-074 NMRA.

## 4.6. NOTICE.

**4.6.1. Generally.** The notice requirements for each application are prescribed in the subsections of this chapter and by state law.

**4.6.2. Notice of Hearing.** Notice of a public hearing to be conducted by the Hearing Officer, Planning Commission, or the Board, shall be provided as described in the resolution adopted by the Board pursuant to the Open Meetings Act. Public hearings shall be conducted according to the Board's rules of order. The name of the applicant and agent if any shall be stated in the notice.

**4.6.3. General Notice of Applications Requiring a Public Hearing.** All applications not requiring specific notice under subsequent subsections shall provide the following notice:

**4.6.3.1. Newspaper.** Notice of hearing shall be published by the applicant in a newspaper of general circulation at least fifteen days (15) prior to the date of the hearing. The Administrator shall provide the form of the notice to the applicant.

**4.6.3.2. First Class Mail.** Notice of the public hearing shall be mailed by the applicant by first class mail at least fifteen days (15) prior to the date of the hearing to the owners, as shown by the records of the County Assessor, of lots or of land within 500 feet of the subject property, excluding public right-of-ways. The Administrator shall provide the form of the notice to the applicant.

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**4.6.3.3. Posting.** Notice of the public hearing shall be posted by the applicant on the parcel at least fifteen (15) days prior to the date of the hearing. The notice to be posted shall be provided by the Administrator and shall be prominently posted on the property in such a way as to give reasonable notice to persons interested in the application. The notice shall be visible from a public road. If no part of the property or structure is visible from a public road, the property shall be posted as required in this paragraph and a second notice shall be posted on a public road nearest the property. Posted notice shall be removed no later than seven (7) days after a final decision has been made on the application.

**4.6.3.4. Supplemental Notice.** Reasonable effort shall be made by the applicant to give notice by first class mail or email, to all persons, COs and ROs who have made a written request to the Board for advance notice of its hearings. Notice shall also be given to any public agency that issued an opinion or withheld an opinion on the basis of insufficient information.

**4.6.3.5. Verification.** Written verification of the publication, a list of persons sent a mailing, and an affidavit of posting which includes a photograph of the posted notice taken from a public road, shall be provided to the Administrator prior to the public hearing.

**4.6.4. Specific Notice of Zoning, Rezoning, Amendment, Repeal.**

**4.6.4.1. Newspaper.** Notice of the public hearing concerning an application to zone a parcel or parcels, or to amend, rezone, supplement or repeal zoning on a parcel or parcel, shall be provided by the Administrator and published by the applicant in a newspaper of general circulation at least fifteen days prior to the date of the hearing.

**4.6.4.2. Certified Mail.** Whenever a change in zoning is proposed for an area of one block or less, notice of the public hearing shall be mailed by the applicant by certified mail, return receipt requested, to the owners, as shown by the records of the County Assessor at least fifteen days prior to the date of the hearing, of lots within the area proposed to be changed by the zoning regulation and within 100 feet of subject property, excluding public right-of-way.

**4.6.4.3. First Class Mail.** Whenever an application proposes to zone a parcel, or to amend, rezone, supplement or repeal zoning of a parcel or parcels for an area of more than one block, notice of the public hearing shall be mailed by the applicant by first class mail to the owners, as shown by the records of the County Assessor at least fifteen days prior to the date of the hearing, of lots or of land within the area proposed to be changed by a zoning regulation and within 100 feet from subject property or area, excluding public right-of-ways. If notice by first class mail to the owner is returned undelivered, the applicant shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested, to that address.

**4.6.4.4. Posting.** Whenever an application proposes to zone a parcel, or to amend, rezone, supplement or repeal zoning on a parcel or parcels for an area of more than one block, notice of the public hearing shall be posted on the parcel by the Applicant at least fifteen days prior to the date of the hearing. The notice to be posted shall be provided by the Administrator and shall be prominently posted on the property in such a way as to give reasonable notice to persons interested in the application. The notice shall be visible from a public road. If no part of the property or structure is visible from a public road, the property shall be posted as required in this paragraph and a second notice shall be

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posted on a public road nearest the property. A posted notice shall be removed by the Applicant no later than seven (7) days after a final decision has been made on the application.

**4.6.4.5. Supplemental Notice.** Reasonable effort shall be made by the Applicant to give notice to all persons, COs and ROs who have made a written request to the Board for advance notice of its hearings. Notice shall also be given to any public agency that either issued an opinion or withheld an opinion on the basis of insufficient information.

**4.6.4.6. Verification**. Written verification of the publication, list of persons sent a mailing, certificates of mailing with return receipts and affidavit of posting which includes a photograph of the posted notice shall be provided to the Administrator prior to the public hearing.

**4.6.5. Specific Notice Applicable to Subdivisions.**

**4.6.5.1. Newspaper.** Notice of the hearing on an application for approval of a preliminary plat pursuant to NMSA 1978, Sec. 47-6-14(A) shall be provided by the Administrator and shall be published by the applicant at least twenty-one (21) days prior to the hearing date. The notice of hearing shall include the subject of the hearing, the time and place of the hearing, the manner for interested persons to present their views, and the place and manner for interested persons to secure copies of any favorable or adverse opinion and of the developer's proposal. The notice shall be published in a newspaper of general circulation in the county.

**4.6.5.2. Posting.** Notice of the hearing on an application for approval of a preliminary plat pursuant to NMSA 1978, Sec. 47-6-14(A), shall in addition to newspaper publication, be posted on the property at least fifteen (15) days prior to the date of the hearing. The notice to be posted shall be provided by the Administrator and shall be prominently posted on the property in such a way as to give reasonable notice to persons interested in the application. The notice shall be visible from a public road. If no part of the property or structure is visible from a public road, the notice on property shall be posted as required in this paragraph and a second notice shall be posted on a public road nearest the property. Posted Notice shall be removed no later than seven (7) days after a final decision has been made on the application.

**4.6.5.3. Supplemental Notice.** Reasonable effort shall be made by applicant to give notice to all persons, COs and ROs who have made a written request to the Board for advance notice of its hearings. Notice shall also be given to any public agency that issued an opinion or withheld an opinion on the basis of insufficient information.

**4.6.5.4. Verification.** Written verification of the publication, list of persons sent a mailing, and affidavit of posting which includes a photograph of the posted notice shall be provided to the Administrator prior to the public hearing.

**4.6.6. Notice of Administrative Action.** Notice of a proposed land division, subdivision, multifamily or non-residential use that is to be approved administratively shall provide the following notice:

**4.6.6.1. Posting.** Notice of the pending application shall be posted on the parcel at least fifteen (15) days prior to the date of the approval of the application. The notice to be posted shall be provided by the Administrator and shall be prominently posted on the property in such a way as to give reasonable notice to persons interested in the application. The notice shall be visible from a public road. If no part of the property or

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structure is visible from a public road, the property notice shall be posted as required in this paragraph and a second notice shall be posted on a public road nearest the property. Posted notice shall be removed no later than seven (7) days after a final decision has been made on the application.

**4.6.7. Notice of Issuance of a Development Permit.** Notice of issuance of a development permit shall be posted on the property for at least fifteen (15) days subsequent to the issuance of the permit except that a development permit for construction of a building shall remain posted during construction.

**4.6.8. Contents of Notice.** Published, posted and mailed notice shall include a minimum of the following:

**4.6.8.1.** The name of the applicant and the name of the person(s) who the applicant is agent for or otherwise representing in the application;

**4.6.8.2.** The general location of the parcel that is the subject of the application;

**4.6.8.3.** The road address of the property subject to the application or, if the road address is unavailable, a legal description by metes and bounds;

**4.6.8.4.** The current zoning classification(s) and zoning district in which the property is located, and the present use of the property;

**4.6.8.5.** The nature and type of approval requested and a brief description of the proposed development, including proposed density or building intensity, zoning classifications and uses requested;

**4.6.8.6.** The time, date and location where a decision on the application is expected;

**4.6.8.7.** A phone number to contact the County; and

**4.6.8.8.** A statement that interested parties may appear at a public hearing.

**4.6.9. Constructive Notice.** Minor defects in public notice shall not invalidate proceedings so long as a bona fide attempt has been made to provide notice and that notice was constructively received. In all cases, however, the requirements for the timing of the notice and for specifying the date, time and place of a hearing and the location of the subject property shall be strictly construed. If questions arise regarding the adequacy of notice, the body conducting the hearing shall make a finding concerning compliance with the notice requirements of this Ordinance.

**4.6.10. Action to Be Consistent with Notice.** The Administrator, Hearing Officer, Planning Commission or Board shall only take action, including approval, conditional approval or denial of the application that is consistent with and relates to the notice given.

**4.6.11. Minor Amendments Not Requiring Re-notification.** The Administrator, Hearing Officer, Planning Commission or Board may allow minor amendments to the application without re-submittal of the entire application. For purposes of this section, “minor amendments” are amendments that do not:

**4.6.11.1.** Increase the number of dwelling units, floor area, height, impervious surface development, or require any additional land-use disturbance;

**4.6.11.2.** Introduce different land uses than that requested in the application;

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**4.6.11.3.** Request consideration of a larger land area than indicated in the original application;

**4.6.11.4.** Request a greater variance than that requested in the application;

**4.6.11.5.** Request any diminution in buffer or transition area dimensions, reduction in required yards, setbacks or landscaping, increase of maximum allowed height, or any change in the design characteristics or materials used in construction of the structures; or

**4.6.11.6.** Reduce or eliminate conditions attached to a legislative or quasi-judicial development order unless a new application is filed.

## 4.7. HEARING STANDARDS.

### 4.7.1. Legislative Hearings.

**4.7.1.1. Conduct of Hearing.** Testimony may be presented by the owner/applicant, any member of the public, and by the County or other affected governmental entities. Testimony need not be submitted under oath or affirmation. The Hearing Officer, Planning Commission or Board may establish a time limit for testimony and may limit testimony where it is repetitive.

**4.7.1.2. Special Rules: Contested Zoning Matters.** If the owners of twenty percent or more of the area of the land or representing more than twenty percent (20%) of the lots included in an area proposed to be changed by a zoning regulation, or within one hundred feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing the proposed change in the zoning regulation, the proposed change in zoning shall not become effective unless the change is approved by a two thirds vote of the Board. NMSA 1978, §3-21-6(C).

**4.7.1.3. Planning Commission Recommendation.** The Planning Commission shall make a written recommendation to the Board on any application requiring final approval of the Board that an application be approved, approved with conditions, or denied. If an application requiring final approval of the Board has been duly submitted to the Planning Commission, and the Planning Commission has failed to convene a quorum or to make a recommendation approving, approving with conditions or denying such development approval at two (2) meetings on the application, the application shall move to the Board without a recommendation unless the Applicant waives this requirement and agrees in writing to any additional Planning Commission meetings.

**4.7.1.4. Minutes.** Written verbatim minutes shall be prepared and retained with the evidence submitted at the final hearing. Verbatim or summary minutes shall be prepared and retained with the evidence submitted at a preliminary hearing.

**4.7.1.5. Board Action.** The Board shall hold a public hearing to consider a legislative application. The Board shall duly consider the recommendation of the Planning Commission.

### 4.7.2. Quasi-Judicial Public Hearings.

**4.7.2.1. Conduct of Hearing.** Any person or persons may appear at a quasi-judicial public hearing and submit evidence, either on their own behalf or as a representative. Each person who appears at a public hearing shall take a proper oath and state, for the

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record, his/her name, address, and, if appearing on behalf of an association, the name and mailing address of the association. The hearing shall be conducted in accordance with the procedures set forth in the Board's Rules of Order. At any point, members of the Board, the Planning Commission or the Hearing Officer conducting the hearing may ask questions of the owner/applicant, staff, or public, or of any witness, or require cross-examination by persons with standing in the proceeding to be conducted through questions submitted to the chair of the Board, Planning Commission or to the Hearing Officer, who will in turn direct questions to the witness. The order of proceedings shall be as follows:

**1.** The Administrator, or other County staff member designated by the Administrator, shall present a description of the proposed development, the relevant sections of the SGMP, area, district or community plans, the SLDC, and state and federal law that apply to the application, and describe the legal or factual issues to be determined. The Administrator or County consultant or staff member shall have the opportunity to present a recommendation and respond to questions from the Board, Planning Commission or Hearing Officer concerning any statements or evidence, after the owner/applicant has had the opportunity to reply;

**2.** The owner/applicant may offer the testimony of experts, consultants or lay witnesses and documentary evidence that the owner/applicant deems appropriate, subject to cross examination by adverse parties with standing within reasonable time limits established by the Board, Planning Commission or Hearing Officer;

**3.** Public testimony, including expert, consultant or lay witnesses and relevant documentary evidence for or against the application shall be received, subject to reasonable time limits established by the Board, Planning Commission or Hearing Officer, from the County, other governmental agencies or entities and interested parties with standing, subject to cross examination by the owner/applicant, any adverse interested party with standing, or by the County;

**4.** The owner/applicant may reply to any testimony or evidence presented, subject to cross examination;

**5.** The Board, Planning Commission or Hearing Officer may pose questions to the owner/applicant, the County, any consultant or lay witness at any time during the hearing concerning any statements, evidence, or applicability of policies and regulations from the SGMP, the SLDC, other County ordinances and regulations, any applicable area, or community plan, or other governmental law or recommendations; and

**6.** The Board, Planning Commission or Hearing Officer conducting the hearing shall close the public portion of the hearing and conduct deliberations. The Board or Planning Commission may elect to deliberate in a closed meeting pursuant to the Open Meetings Act, NMSA 1978, §§10-15-1 et seq.

**4.7.2.2. When Conducted.** For an application for approval of a preliminary plat, the first public hearing shall take place within thirty (30) days from the receipt of all requested public agency opinions where all such opinions are favorable, or within thirty (30) days from the date that all public agencies complete their review of additional information submitted by the subdivider pursuant to NMSA 1978, Sec. 47-6-11. If a requested opinion is not received within the thirty-day period, the public hearing shall be conducted notwithstanding.

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**4.7.2.3. Minutes.** Written verbatim minutes shall be prepared and retained with the evidence submitted at the final hearing conducted on an application.

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# Chapter 5 – Subdivisions and Land Divisions

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# CHAPTER FIVE – SUBDIVISIONS AND LAND DIVISIONS

**5.1. TITLE AND AUTHORITY.** These subdivision and land division regulations are adopted pursuant to § 47-6-9 NMSA 1978.

**5.2. PURPOSE.** This Chapter establishes the general rules and regulations governing the preparation, review, and recordation of plats that divide land within Santa Fe County. This Chapter is intended to promote the purposes, intent, findings and substantive provisions of the SLDC and to implement the goals, policies and strategies of the SGMP and any applicable area, district or community plan.

**5.3. APPLICABILITY AND GENERAL RULES.**

**5.3.1. Generally.** Unless otherwise stated herein, the provisions of this Chapter apply to any division of a surface area of land into two or more parcels for sale, lease or other conveyance or for building development. Most such divisions are deemed 'subdivisions' subject to the applicable subdivision provisions of this Chapter. However, certain lesser divisions of land, referred to as 'exempt land divisions', are exempt from subdivision requirements but remain subject to zoning requirements and review and approval as provided in § 5.4.

**5.3.2. Development Order Required**. The owner of any tract of land who desires to divide the land shall obtain a development order approving the division as a major or minor subdivision or an exempt land division prior to recording a plat making the division.

**5.3.3. Unapproved Division Prohibited.**

**5.3.3.1.** No person shall divide or subdivide any tract, parcel or lot of land without making and recording a final plat and complying fully with the requirements of the SLDC. No land within the jurisdiction of the County may be divided through the use of any legal description other than with reference to a final plat approved in accordance with the SLDC.

**5.3.3.2.** No person shall sell, lease or transfer ownership of any tract, parcel or lot of land by reference to a plat or subdivision map before a final plat has been duly recorded with the County Clerk.

**5.3.3.3.** The County Clerk shall not file or record any final plat or deed that divides or subdivides land until it has been approved in a development order in accordance with this Chapter. The County Clerk shall not file or record any condominium declaration absent certification of the Administrator that the provisions of this Chapter have been met.

**5.3.4. Boundary Surveys, Utility or Access Easements.** Nothing in this Chapter regulates the recording of a boundary survey, so long as the survey does not purport to divide or subdivide property. Creation of a utility or access easement on a boundary survey is not regulated by this Chapter except to the extent that the creation of such utility or access easement is intended to divide or subdivide property, in which case a development order shall be required.

**5.3.5. Commencement and Completion of Development.** Commencement of construction or work shall begin within one (1) year of the date of the issuance of the development permit. Construction or work set forth in the development permit shall be completed within two (2) years of the issuance of the development permit unless an extension of time has been obtained from the Administrator.

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## 5.4. ~~EXEMPT~~ LAND DIVISIONS AND SUBDIVISION EXEMPTIONS.

**5.4.1. Applicability.** Certain land divisions are not deemed subdivisions under New Mexico law (NMSA 1978, § 47-6-2) and therefore are not subject to the subdivision requirements of this Chapter. Such divisions are referred to as ~~exempt~~ land divisions and subdivision exemptions and are listed in § 5.4.3 below. Regardless of being exempted from subdivision requirements, these ~~exempt~~ land divisions and subdivision exemptions remain subject to all other provisions of the SLDC and therefore require review and approval of a final plat by the Administrator and shall be required to comply with the requirements of final plats and all applicable design standards of Chapter 7. The applicable procedures for review and approval of exempt land divisions are set forth in Table 4-1.

**5.4.2. Approval Criteria.** No discretionary or ministerial development approval shall be granted for any exempt land division until it is demonstrated that all resulting tracts, parcels or lots meet all applicable sections of SLDC including the requirements of the zoning district in which they are located.

**5.4.3. ~~Qualifying Exempt~~ Land Divisions and Subdivision Exemptions.** The following land divisions and plats shall not be deemed~~-~~ subdivisions and are exempt from the imposition of subdivision requirements of this Chapter.

**5.4.3.1. Lot Line Adjustment.** A lot line adjustment is and means the division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased. A lot line adjustment shall be administratively reviewed and approved by the Administrator.

**5.4.3.2. Family Transfer.** A division of land to create a parcel that is sold or donated as a gift to an immediate family member. A donor may sell or give no more than one parcel per tract of land per immediate family member without having to comply with the subdivision regulations set forth in this Chapter and the New Mexico Subdivision Act, § 47-6-1 *et seq*. NMSA 1978.

**5.4.3.3. Large Agricultural Tracts.** A sale, lease or other conveyance of any parcel that is thirty-five (35) acres or larger in size within any twelve-month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with § 7-36-20 NMSA 1978, for the preceding three years.

**5.4.3.4. Apartments or Offices.** A sale or lease of apartments, offices, stores or similar spaces within a building.

**5.4.3.5. Land Divisions within Municipalities.** A division of land within the boundaries of a municipality.

**5.4.3.6. Severance of Mineral Interests.** A division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land; however, oil and gas exploration and production is otherwise regulated by Ordinance No. 2008-19.

**5.4.3.7. Court Ordered Divisions.** A division of land created by court order where the order creates no more than one parcel per party.

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**5.4.3.8. Grazing or Farming.** A division of land for grazing or farming activities; provided the land continues to be used for grazing or farming activities.

**5.4.3.9. Burials.** A division of land to create burial plots in a cemetery.

**5.4.3.10. Security Interests.** A 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.

**5.4.3.11. Large Parcels.** A sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres.

**5.4.3.12. Certain Donations.** A division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college or other institution with a defined curriculum and a student body and faculty that conducts classes on a regular basis; or church or group organized for the purpose of divine worship, religious teaching or other specifically religious activity.

**5.4.3.13. Single Parcels in Less than Five Year Increments.** A sale, lease or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five-year period; provided that a second or subsequent sale, lease or other conveyance from the same tract of land within five years of the first sale, lease or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act and the SLDC; provided further that a survey shall be filed with the county clerk indicating the five-year holding period for both the original tract and the newly created tract.

**5.4.3.14. Boundary Plat.** The graphic representation and legal description of a parcel, lot or tract of land.

**5.4.3.15. Consolidation Plat.** The graphic representation and legal description of a merger, incorporation or consolidation of two or more parcels, lots or tracts of land.

**5.4.3.16. Easement Plat.** The graphic representation and legal description of an easement on a parcel, lot or tract of land.

**5.4.3.17. Plat Amendment.** A minor change or correction on a plat.

**5.4.3.18. Sending Area Plat.** A plat that designates a sending area conservation area for TDR purposes.

## 5.5. SUBDIVISION CLASSIFICATION AND PROCEDURES.

**5.5.1. Classification**. For purposes of this Chapter, subdivisions are classified as either major or minor. Table 5-1 indicates which subdivisions are classified major or minor.

**Table 5-1: Classification of Subdivisions.**

| Major Subdivisions | Minor Subdivisions |
|---|---|
| *Type One*: 500+ parcels* | *Type Three (minor)*: 2-5 parcels* |

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| | |
|---|---|
| *Type Two*: 25-499 parcels* | |
| *Type Three (major)*: 6-24 parcels* | *Type Five*: 2-24 parcels** |
| *Type Four*: 25+ parcels** | |

* Where any parcel is less than ten (10) acres in size.
** Where each parcel is greater than ten (10) acres in size.

**5.5.2. Applicability.** Major and minor subdivisions are subject to the standards set forth in this Chapter for approval of subdivision plats.

**5.5.3. Determination by Administrator.** The Administrator, as part of the completeness review, shall determine whether a proposed subdivision constitutes a minor or major subdivision and notify the applicant of the classification when the applicant is notified of the decision concerning completeness review.

**5.5.4. Review Procedures.** Separate procedures are prescribed for review of major and minor subdivisions in Table 4-1 to reflect differing levels of complexity in the applications. Before any land is subdivided, the applicant shall apply for and secure approval of the proposed subdivision in accordance with the following procedures:

**5.5.4.1. Major Subdivision**: In the case of major subdivisions, the procedure shall include two principal steps: (i) preliminary plat approval and (ii) final plat approval. In addition to the above, all major subdivisions creating more than 24 lots and any phased major subdivision shall be required to submit a conceptual plan.

**5.5.4.2. Minor Subdivision**. In the case of minor subdivisions creating no more than five (5) lots, the procedure shall include administrative approval of the final plat in a single step known as summary review. The final plat for minor subdivisions creating over five (5) lots will be approved by the Board. Preliminary plat review is not required for minor subdivisions.

**5.5.5. Compliance with SLDC.** All subdivisions shall comply with the applicable provisions of the SLDC including, but not limited to, the lot size, density and zoning provisions of Chapter 8 and the design standards of Chapter 7.

**5.5.6. Timing.** The timelines for approval of a preliminary plat application are covered by § 5.7.6.

## 5.6. SUMMARY REVIEW.

**5.6.1. Applicability.** All minor subdivisions are subject to summary review, the procedures for which are set forth in Table 4-1 and this section. While summary review involves review of a final plat by the Administrator (no preliminary plat required), minor subdivisions still shall comply with all requirements of the SLDC including the requirements and submittals imposed on both preliminary and final plats.

**5.6.2. Grant of Authority.** Pursuant to NMSA 1978, § 47-6-11(M), the Board hereby delegates its approval authority for minor subdivisions to the Administrator.

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**5.6.3. Subdivision Approval Standards and Requirements.** The Administrator shall not approve or conditionally approve an application for minor subdivision unless it is determined that:

**5.6.3.1.** the minor subdivision plat conforms to the final plat requirements of § 5.8.4;

**5.6.3.2.** the applicant can fulfill the proposals contained in the subdivision disclosure statement required by § 5.13; and

**5.6.3.3.** the subdivisions conforms with the New Mexico Subdivision Act and the applicable provisions of the SLDC.

**5.6.4. Timing.** A final plat for minor subdivision shall be approved or disapproved within thirty (30) days of the application being deemed complete by the Administrator. If the Administrator does not act on the minor subdivision plat application within the required period of time, the applicant shall give the Administrator written notice of his failure to act. If the Administrator fails to approve or reject the minor subdivision plat within thirty (30) days after that notice, the Administrator shall, upon written demand from the applicant, issue a certificate stating that the minor subdivision plat has been approved.

## 5.7. PRELIMINARY PLATS (MAJOR SUBDIVISIONS).

**5.7.1. Applicability.** Preliminary plat approval is required for all major subdivisions in accordance with this section and the procedures as set forth in Table 4-1.

**5.7.2. Application.** An application for preliminary plat approval shall be filed with the Administrator and include all information and submittals required by this Chapter and any additional submittals required by the Administrator as provided in the application form.

**5.7.3. Preliminary Plat Requirements.** The application for preliminary plat approval shall, at a minimum, include all of the following:

**5.7.3.1.** A proposed disclosure statement consistent with NMSA 1978, § 47-6-17;

**5.7.3.2.** All documentation required by NMSA 1978, § 47-6-11 and by the SLDC for the purpose of demonstrating:

**1.** water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic use;

**2.** water of an acceptable quality for human consumption and measures to protect the water supply from contamination;

**3.** satisfactory means of liquid waste disposal;

**4.** satisfactory means of solid waste disposal;

**5.** satisfactory roads to each parcel, including ingress and egress for emergency vehicles and utility easements to each parcel;

**6.** satisfactory terrain management to protect against flooding, inadequate drainage and erosion; and

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**7.** satisfactory protection for cultural properties, archaeological sites and unmarked burials that may be impacted directly by the subdivision, as required by the Cultural Properties Act.

**5.7.4. Endorsements**.

**5.7.4.1.** The application shall contain adequate information to assure the Board that the legal owner is participating in the development approval process and consents thereto, and authorizes County access to the subject property for site inspection purposes.

**5.7.4.2.** The application shall provide proof that all taxes due on the property have been paid in full. Applicants should be aware that NMSA 1978, § 7-38-44.1, which was enacted into law and became effective on April 2, 2013, amended the Property Tax Code. That amendment requires a taxpayer to pay the taxes, penalties and interest due on real property divided or combined through the table year in which the property is divided or combined prior to filing a plat. The amendment also provides for a county assessor to determine the tax rate and amount of taxes due on such property and requires the assessor to proceed to immediately collect those taxes, penalties, interest and fees determined to be due for the taxable year in which the property is divided or combined.

**5.7.4.3.** The application shall provide proof of legal access to the property.

**5.7.5. Review by Certain Agencies and Tribal Governments.**

**5.7.5.1. Reviewing Entities.** In determining whether an application can fulfill the requirements of the SLDC and whether the required findings can be made, the Administrator shall, within ten (10) days after the preliminary plat approval application is deemed complete, request opinions from:

**1.** the Office of the State Engineer, who shall determine:

**a.** whether the applicant can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses; and

**b.** whether the applicant can fulfill the proposals in the proposed disclosure statement concerning water, excepting water quality;

**2.** the New Mexico Environment Department to determine:

**a.** whether the applicant can furnish water of an acceptable quality for human consumption and measures to protect the water supply from contamination in conformity with state regulations promulgated pursuant to the Environmental Improvement Act;

**b.** whether there are sufficient liquid and solid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations promulgated pursuant to the Environmental Improvement Act, the Water Quality Act and the Solid Waste Act; and

**c.** whether the applicant can fulfill the proposals contained in the proposed disclosure statement concerning water quality and concerning liquid and solid waste disposal facilities;

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**3.** the New Mexico Department of Transportation to determine whether the applicant can fulfill the state highway access requirements for the subdivision in conformity with state regulations promulgated pursuant to NMSA 1978 § 67-3-16;

**4.** the applicable soil and water conservation district to determine:

**a.** whether the applicant can furnish terrain management sufficient to protect against flooding, inadequate drainage and erosion; and

**b.** whether the applicant can fulfill the proposals contained in the proposed disclosure statement concerning terrain management;

**5.** each Indian nation, tribe or pueblo with a historical, cultural or resource tie with the County that submits at least annually, via certified mail, return receipt requested, a written request for notification to the Board, which request indicates the Indian nation, tribe or pueblo's historical, cultural or resource tie with the county, its contact information and a listing of the types of documentation required to be submitted by a applicant to the county that may be necessary for its review to determine:

**a.** whether the applicant can furnish, fulfill or otherwise meet the requirements set forth in § 5.7.5.1.1 through § 5.7.5.1.4; and

**b.** how the proposed plat may directly affect cultural properties, archaeological sites and unmarked burials; and

**6.** such other public agencies as the Administrator deems necessary, such as local school districts and fire districts, to determine whether there are adequate facilities to accommodate the proposed subdivision.

**5.7.5.2**. **Affirmative Opinions**. If, in the opinion of each appropriate public agency or Indian nation, tribe or pueblo, the applicant can fulfill the requirements of § 5.7.5.1, the Board shall weigh these opinions in determining whether to approve the preliminary plat at a public hearing to be held in accordance with NMSA 1978 § 47-6-14.

**5.7.5.3. Adverse Opinions.** If, in the opinion of the appropriate public agency or Indian nation, tribe or pueblo, an applicant cannot fulfill the requirements of § 5.7.5.1 or, if the appropriate public agency or Indian nation, tribe or pueblo does not have sufficient information upon which to base an opinion on any one of these subjects, the applicant shall be notified of this fact by the Administrator. If the appropriate public agency or Indian nation, tribe or pueblo has rendered an adverse opinion, the Administrator shall provide a copy of the opinion to the applicant. The Administrator shall give the applicant thirty (30) days from the date the applicant is notified of the deficiencies to submit additional information to the public agency or the Indian nation, tribe or pueblo through the Administrator. The public agency or the Indian nation, tribe or pueblo shall have thirty (30) days from the date the additional information is submitted to change its opinion or issue a favorable opinion when it has withheld one because of insufficient information. Where the public agency has rendered an adverse opinion, the applicant shall have the burden of showing that the adverse opinion is incorrect either as to factual or legal matters. Where the Indian nation, tribe or pueblo has rendered an adverse opinion, the applicant may submit additional information to the Board. If a public agency disagrees with an adverse opinion rendered by an Indian nation, tribe or pueblo, that agency shall submit a response to the Board.

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**5.7.6. Consideration of Application; Public Hearing; Development Order.**

**5.7.6.1.** A quasi-judicial public hearing on the preliminary plat application shall be conducted within thirty (30) days from the receipt of all requested public agency opinions where all such opinions are favorable, or within thirty (30) days from the date of receipt of a revised opinion following review of any additional information submitted by the applicant pursuant to NMSA 1978 § 47-6-11. If the Board does not receive a requested opinion within the thirty day period specified, the Board shall proceed. The hearing shall be conducted in accordance with the provisions of NMSA 1978 § 47-6-14 and the SLDC.

**5.7.6.2.** At the hearing on the application, the Board shall:

**1.** consider all of the information comments, opinions and recommendations provided, the recommendation of the Administrator, the SRAs required by Chapter 6, the documentation required pursuant to NMSA 1978 § 47-6-1, and the testimony and documentary evidence submitted;

**2.** determine whether the application meets the requirements of the SLDC; and

**3.** make the specific findings required in § 5.7.7 of this Chapter.

**5.7.6.3.** Not more than thirty (30) days after the conclusion of the public hearing the Board shall approve, approve with conditions, or disapprove the application by approving its findings of fact and conclusions of law at a public meeting of the Board. A development order shall be issued to reflect the Board's action. The thirty (30) day period may be extended by mutual consent of the parties.

**5.7.6.4.** The applicant may withdraw its application at any time prior to the Board's determination by submitting a written notice of withdrawal to the Administrator. Reapplication will thereafter be subject to the applicable provisions of the SLDC.

**5.7.7. Preliminary Plat Approval Standards and Requirements.** The Board shall not approve or conditionally approve an application for preliminary plat unless the following findings are made in writing:

**5.7.7.1.** the proposed subdivision conforms to all provisions of the SLDC;

**5.7.7.2.** the applicant can fulfill the requirements of § 5.7.3.2;

**5.7.7.3.** the applicant can fulfill all of the proposals contained in its disclosure statement; and

**5.7.7.4.** the subdivision will conform to the New Mexico Subdivision Act.

**5.7.8. Conditions of Approval.** In considering an application for preliminary plat, the Board may impose mitigation requirements or conditions to the extent that such requirements or conditions are necessary to ensure compliance with the standards, requirements or criteria of the SLDC, including:

**5.7.8.1.** protection of environmentally sensitive, archaeological, cultural and historic lands;

**5.7.8.2.** prevention of air and water pollution;

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**5.7.8.3.** provision of adequate public facilities and services;

**5.7.8.4.** mitigation of traffic congestion;

**5.7.8.5.** avoidance of negative fiscal impacts; and

**5.7.8.6.** ensuring sustainability.

**5.7.9. Preliminary Plat Amendments.** Proposed amendments to an approved preliminary plat shall be made prior to filing an application for final plat approval and shall be reviewed and processed as follows:

**5.7.9.1.** Minor amendments may be approved by the Administrator without a public hearing and without the filing of a new preliminary plat. Minor amendments are limited to the following:

**1.** changes in the internal alignment of roads that do not affect external properties or the connectivity of roads;

**2.** changes in internal parcel or lot boundaries;

**3.** changes in setbacks along internal property lines;

**4.** changes to lot numbering or addressing; or

**5.** changes in the internal routing of trails and pedestrian ways.

**5.7.9.2.** No minor amendment authorized by this section may cause any of the following:

**1.** change in the permitted uses;

**2.** increased intensity of use as measured by the number of dwelling units or square footage of nonresidential building area;

**3.** increased need for environmental mitigation, adequate public facilities or services, trip generation or demand for public utilities;

**4.** decreased public or private open space area; or

**5.** increased volume or velocity of storm water runoff from the development.

**5.7.9.3.** Any change to an approved preliminary plat other than those set forth in this § 5.7.9 shall constitute a major amendment that shall be processed the same as the original preliminary plat, including the requirement of Board approval.

**5.7.10. Filing of Preliminary Plat.** An executed original preliminary plat, along with any approved amendments thereto, shall be filed with the Administrator, but shall not be filed in the Office of the County Clerk.

**5.7.11. Expiration of Preliminary Plat.** An approved or conditionally approved preliminary plat shall expire unless the applicant obtains a development order granting approval of the final plat within twenty-four months (24) from the date of preliminary plat approval or conditional approval. Prior to the expiration of the approved or conditionally approved preliminary plat, the

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applicant may submit an application for extension , for approval by the Board, for a period of time not to exceed a total of thirty-six (36) months from the original approval date. No further extension shall be granted under any circumstances and the preliminary approval shall become null and void upon expiration of the preliminary plat. No application for final plat approval shall be allowed to be submitted after the preliminary plat has expired. 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.

**5.7.12. Phased Development.** The Board may approve a sectionalized phasing plan extending the effective period of the preliminary plat approval where it is the intent of the applicant to proceed to a final plat covering only a section or phase of the site at any one time. Each filing of a final plat shall extend the expiration of the approved or conditionally approved preliminary plat for an additional thirty-six (36) months from the date of its expiration or the date of the previously filed final plat, whichever is later. Once a preliminary plat has expired, the phased preliminary plat approval development order shall be null and void.

## 5.8. FINAL PLAT.

**5.8.1. When Required.** Final plat approval is required for all subdivisions, both major and minor. No final plat shall be recorded until a final plat has been approved as provided in this section, or in the case of a minor subdivision as provided in § 5.6.

**5.8.2. Application.** An application for final plat approval shall be filed with the Administrator and include all information and submittals required by this Chapter. If the approved preliminary plat permitted phasing or sectionalizing, the application shall submit an application only for the phase(s) proposed.

**5.8.3. Compliance with Preliminary Plat (major subdivisions).** The final plat for a major subdivision shall conform to the approved or approved amended preliminary plat, including all conditions and mitigation requirements contained within the development order approving the preliminary plat. No deviation from the approved or approved amended preliminary plat, together with all conditions and mitigation requirements, shall be authorized to be granted at final approval; any deviation from the development order granting the preliminary plat approval shall require an amendment as provided in § 5.7.9.

**5.8.4. Final Plat Requirements.**

**5.8.4.1. Document Preparation.** Final plat documents shall be prepared as specified in this §5.8. In accordance with NMSA 1978 § 47-6-3, the final plat shall:

**1.** be prepared and certified by a surveyor registered in the State of New Mexico;

**2.** define the subdivision and all roads by reference to permanent monuments;

**3.** accurately describe legal access to, roads to and utility easements for each parcel, and if the access or easements are based on an agreement, the recording data in the land records for the agreement;

**4.** number each parcel in progression, give its dimensions and the dimensions of all land dedicated for public use or for the use of the owners of parcels fronting or adjacent to the land;

**5.** delineate those portions of the subdivision that are located in a floodplain; and

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**6.** delineate buildable areas and no build areas in accordance with §§ 7.17.3 and 7.17.4.

**5.8.4.2. Statements; Acknowledgments.** The final plat shall:

**1.** contain a statement that the land being subdivided is subdivided in accordance with the final plat;

**2.** contain a statement indicating the zoning district in which the subdivision is located;

**3.** be acknowledged by the owner and applicant or their authorized agents in the manner required for the acknowledgment of deeds; and

**4.** be accompanied by an affidavit of the owner and applicant or their authorized agents stating whether or not the proposed subdivision lies within the subdivision regulation jurisdiction of the county.

**5.8.4.3. Offers of Dedication.**

**1.** The final plat application shall be accompanied by formal, irrevocable offers of dedication either pursuant to a voluntary development agreement entered into between the applicant and the County, or as required by the development order issued with respect to preliminary plat approval. The application shall be accompanied with appropriate instruments of conveyance granting fee title or easement rights, in a form approved by the County Attorney, for all:

**a.** roads;

**b.** public infrastructure;

**c.** easements;

**d.** affordable housing sites, as applicable;

**e.** parks and recreation lands;

**f.** school and library sites;

**g.** open space;

**h.** transfers of development rights;

**i.** archaeological, cultural and historic sites;

**j.** wetlands, floodways, streams, hillsides and environmentally sensitive areas;

**k.** agricultural preservation and protection areas; and

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**l.** bicycle and pedestrian trails and lands to be set aside for other public improvements and services.

**2.** The final plat shall be marked with a notation indicating the formal offers of dedication as follows:

*The Owner does hereby irrevocably offer for dedication to the County or other designated governmental or non-profit association, shown on the final plat and construction plans as required by the development order approving the final plat in accordance with an irrevocable offer of dedication dated _____, and recorded in the Santa Fe County Clerk's office.*

*By*_____ *Date*_____
*Owner*

**3.** The final plat shall contain a certificate stating that the Board 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 conformance with county road construction and acceptance standards, roads may be accepted for maintenance. 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 is filed in such office.

**4.** Acceptance of improvements is described in § 5.10.

**5.8.4.4. Subdivision Improvement Agreement.**

**1.** The final plat shall not be approved until the applicant enters into a subdivision improvement agreement with the County, accompanied by a financial guaranty in a form acceptable by the County.

**2.** All subdivision improvements shall be completed no later than two (2) years following the date upon which the final plat is recorded. An additional one (1) year may be obtained upon approval of the Administrator.

**3.** The subdivision improvement agreement shall provide that the covenants contained therein shall run with the land and bind all successors, heirs, and assignees of the owner. The subdivision improvement agreement shall be recorded by the County Clerk within the applicant's chain of title.

**4.** Where no other primary or secondary (emergency) access is available, the first priority of the subdivision improvement agreement shall be installation of base course for the roads within the final plat or a section of the final plat to provide emergency access. No land use alteration or grading, construction of any building or structure or improvement shall be undertaken until such emergency access is provided, unless the alteration or grading, construction of any building or structure or improvement is necessary to construct emergency access.

**5.8.4.5. Water permit required for final plat.**

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**1.** Pursuant to NMSA 1978, § 47-6-11.2 (2013), before approving the final plat for a subdivision containing ten (10) or more parcels, any one of which is two (2) acres or less in size, the Administrator shall:

**a.** require that the subdivider provide a proof of service commitment from a water provider as well as an opinion from the OSE that the subdivider can fulfill the requirements of NMSA 1978, § 47-6-11(F)(1), or provide a copy of a permit obtained from the OSE, issued pursuant to NMSA 1978, §§ 72-12-3 or 72-12-7 for the subdivision water use.

**b.** not approve the final plat unless the OSE has so issued a permit for the subdivision water use or the subdivider has provided proof of a service commitment from a water provider and the OSE has provided an opinion that the subdivider can fulfill the requirements of NMSA 1978, § 47-6-11(F)(1).

**c.** not approve the final plat based on the use of water from any permit issued pursuant to NMSA 1978, § 72-12-1.1.

**5.8.5. Development Agreement.** All major subdivisions are encouraged to enter into a voluntary development agreement pursuant to the provisions of Chapter 12.

**5.8.6. Consideration and Approval of Final Plat.**

**5.8.6.1. Timing**. The Board shall approve, conditionally approve or reject the application for final plat at a public meeting within thirty (30) days after the application is deemed complete by the Administrator pursuant to § 4.4.6.

**5.8.6.2. Failure to Act**. If the Board does not act on a final plat application within the required period of time, the applicant shall give the Board written notice of its failure to act. If the Board fails to approve or reject the final plat within thirty (30) days after that notice, the Board shall, upon written demand from the applicant, issue a certificate stating that the final plat has been approved.

**5.8.6.3. Review Standards**. The Board shall not deny a final plat if it has previously approved a preliminary plat for the proposed subdivision and it finds that the final plat is in substantial compliance with the approved preliminary plat. However, the Board shall not issue a development order approving a final plat unless and until:

**1.** the final plat approval application has been received and deemed complete;

**2.** the final plat substantially conforms to the preliminary plat and all conditions and requirements are complied with;

**3.** the final plat and all documents required are in a form acceptable for recording with the County Clerk;

**4.** the development and subdivision improvement agreements have been signed and notarized and are otherwise fully executed; and

**5.** the administrative and final plat fees have been deposited with the Administrator, together with proper security.

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**5.8.6.4. Conditions.** The Board may introduce conditions or mitigation requirements not a part of the preliminary plat only upon finding that:

**1.** key elements of the application were incorrect and the approval relied on the incorrect facts;

**2.** there is a change in state or federal law; or

**3.** approval of the final plat will create conditions substantially affecting the public health, welfare or safety.

**5.8.6.5. Scope of Approval.** Approval of the final plat by the Board shall not be deemed to constitute acceptance of any offer of dedication, or deposit of any deed or grant of easement until all improvements have been constructed and satisfactorily completed by the developer in accordance with the development order approving the final plat, the approved construction plans and any development or subdivision improvement agreement entered into.

**5.8.6.6. Denial of Final Plat.** A denial of a final plat by the Board shall be accompanied by a finding identifying the requirements that have not been met.

**5.8.7. Expiration of Final Plat.** Any approved or conditionally approved Final Plat, shall be recorded within twenty-four (24) months after its approval or conditional approval or the Plat shall expire. Prior to the expiration of the Final Plat, the subdivider may request, from the Board, an extension of the Final Plat for a period of time not exceeding thirty-six (36) months.

**5.8.8. Recording.** Upon approval of a final plat, the final plat, subdivision covenants, disclosure statement, and any other relevant document(s) shall be recorded in the office of the County Clerk. The original Mylar drawing, together with related documents, shall be dated and signed by the Board Chair, the Administrator, Rural Addressing, Fire Marshal, appropriate utility companies, and other appropriate signatures. The County Clerk shall not accept for filing any final plat subject to the New Mexico Subdivision Act that has not been approved as provided in the Subdivision Act and the SLDC. Whenever separate documents are to be recorded concurrently with the final plat, the county clerk shall cross-reference such documents.

**5.8.9. Expiration period.** Where no expiration period is provided for in a development order or development agreement, all approvals of development orders or voluntary development agreements shall expire after:

**5.8.9.1.** the failure to commence the development within three years after approval,

**5.8.9.2.** the failure to have completed 25% of the development within four years after approval,

**5.8.9.3.** the failure to have completed 50% of the development within five years after approval,

**5.8.9.4.** the failure to have completed 75% of the development within six years after approval; or

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**5.8.9.5.** the failure to have completed 100% of the development within seven years after final development approval.

## 5.9. SUBDIVISION IMPROVEMENTS.

### 5.9.1. Monuments.

**5.9.1.1.** All primary subdivision boundary corners and the intersections of road centerlines shall be marked with permanent monuments at that point or if necessary with an offset marking.

**5.9.1.2.** A permanent monument shall be concrete with a brass or aluminum cap. The concrete monument shall be a minimum of six (6) inches in diameter and shall be extended thirty (30) inches below the finished grade.

**5.9.1.3.** Any described mark shall be permanently affixed to rock or concrete through the use of an expansion bolt, set in a drilled hole with a ferrous metal rod (rebar or pipe) of a minimum length of forty eight (48) inches, a survey post approved by the Bureau of Land Management, or any monument of higher standards.

**5.9.1.4.** Secondary monuments may be rebar, pipe or other metal rod, not less than 1/2" diameter and 16" in length with surveyor's registration number on cap which may be aluminum, plastic, brass or comparable material. Secondary monuments shall be set at all lot corners, points of curve and boundary angle points.

### 5.9.2. Road Development.

**5.9.2.1.** Roads within a subdivision shall be constructed only on a schedule approved by the Board. In approving or disapproving an applicant's road construction schedule, the Board shall consider:

**1.** the proposed use of the subdivision;

**2.** the period of time before the roads will receive substantial use;

**3.** the period of time before construction of homes will commence on the portion of the subdivision serviced by the road;

**4.** the requirements of this Chapter 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.

**5.9.2.2.** All proposed roads shall conform to minimum safety and design standards established in Chapter 7.

**5.9.2.3.** The Board shall not approve the grading or construction of roads unless and until the applicant can reasonably demonstrate that the roads to be constructed will receive use and that the roads are required to provide access to parcels or improvements within twenty-four (24) months from the date of construction of the road.

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**5.9.2.4.** It is unlawful for the applicant to grade or otherwise commence construction of roads unless the construction conforms to the schedule of road development approved by the Board.

**5.9.2.5.** Before approving an application for approval of a final plat pursuant to this Chapter, the Administrator shall ensure that the Board has approved the schedule of road development. Failure to obtain Board approval of the schedule shall mean that the application shall not be deemed complete.

**5.9.3. Construction Plans.**

**5.9.3.1.** Construction plans shall be submitted to the Administrator along with the application.

**5.9.3.2.** All required improvements shall be constructed in accordance with the applicable requirements of Chapter 7 and any applicable design and improvement standards required by federal or state agencies, public or private utilities, schools, assessment or public improvement districts or other applicable entities.

**5.9.3.3.** The Administrator shall review construction plans for compliance with the preliminary plat, the SLDC, and other applicable requirements, and may consult with the TAC on technical matters.

**5.9.4. Modification of Construction Plans.**

**5.9.4.1.** All installations of improvements and all construction shall substantially conform to the approved construction plans. If the applicant chooses to make minor modifications in the construction plans' specifications after the recording of the final plat and during construction, such changes shall be made only with the written approval of the Administrator.

**5.9.4.2.** It shall be the responsibility of the applicant to notify the Administrator in advance of any substantial changes to be made from the approved specifications or drawings.

**5.9.4.3.** In the event that actual construction work substantially deviates from that shown on the approved construction plans, and such deviation was not approved in advance by the Administrator, the applicant may be required to correct the installed improvements to conform to the approved construction plans. In addition, the Administrator may take such other actions as deemed appropriate, including, but not limited to, recommending revocation or suspension of development approvals already issued or withholding of future development approvals.

**5.9.5. As-Built Drawings.**

**5.9.5.1. Submittal.** Prior to final inspection of the required improvements, and prior to the issuance of any ministerial development approval for any tract, parcel or lot in the subdivision, the applicant shall submit to the Administrator a digital disk and two prints of as-built engineering drawings for each of the required improvements that have been completed. Each set of drawings shall be recertified by the applicant's professional engineer, indicating the date when the as-built survey was made.

**5.9.5.2. Sewer and Storm Drainage.** As-built drawings shall show the constructed vertical elevation, horizontal location and size of all sanitary and storm sewers; rainwater

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capture swales, pervious pavements, filtering and treatment facilities; manholes, inlets, junction boxes, detention basins, and other appurtenances or elements of the sewerage and storm drainage systems constructed to serve the subdivision. Sewer and storm drain lines shall be videotaped and a copy of the videotape shall be provided with the as-built drawings. Copies of any and all test results or other investigations shall be provided to the Administrator.

**5.9.5.3. Water.** As-built drawings shall depict water lines, valves, fire hydrants, and other appurtenances or elements of the water distribution system constructed to serve the project. Such information shall include the horizontal location and size of water lines and the location and description of valves with dimensional ties. Copies of any and all test results or other investigations shall be provided to the Administrator.

**5.9.5.4. Roads, Sidewalks, Bicycle and Equestrian Trails and Paths.** As-built drawings shall depict the location, road right-of-way, width, materials and vertical elevation.

**5.9.5.5. Control Points.** As-built drawings shall show all control points and monuments.

## 5.10. INSPECTION AND ACCEPTANCE OF IMPROVEMENTS.

**5.10.1. Inspection Required.** During the preparation of land and the installation of general improvements, periodic inspections may be made by the Administrator to ensure conformity with the SLDC, all conditions and mitigation requirements in the development order approving the final plat, the development and subdivision improvement agreements, and the specifications and standards of the approved construction plans. Other appropriate governmental agencies and public and private utilities may make inspections at any time during the progress of work. All improvements required by this Chapter shall be inspected prior to acceptance by the Administrator. Where inspections are made by governmental agencies and public and private utilities or agencies other than the Administrator, the applicant shall provide a written report of each inspection to the Administrator.

**5.10.2. Inspection Schedule.** The applicant shall notify the Administrator of the commencement of construction of improvements not less than twenty-four (24) hours prior thereto. Inspections are required at each of the following stages of construction or as otherwise determined in the development and subdivision improvement agreements:

**5.10.2.1.** site grading/erosion control and stormwater management completion;

**5.10.2.2.** prior to permanent burial of underground utility or other public improvement installations;

**5.10.2.3.** prior to aggregate base installation;

**5.10.2.4.** prior to curb and gutter or swale installation;

**5.10.2.5.** prior to binder placing; and

**5.10.2.6.** prior to final porous material surfacing prior to seal coat.

**5.10.3. Compliance with Standards.** The applicant and any third party construction contractor engaged by the applicant shall bear joint and several liability and responsibility for the installation

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and construction of all required improvements according to the provisions of the development order approving the final plat, the development and subdivision improvement agreements, the sustainable design and construction standards of the SLDC, and the applicable standards and specifications of other governmental entities.

**5.10.4. Acceptance of Land and Improvements.**

**5.10.4.1.** Approval of the installation and construction of improvements shall not constitute acceptance by the County of the improvements or offers of dedication. The installation of improvements in any subdivision shall in no case serve to bind the County to accept such improvements for maintenance, repair, or operation thereof. Such acceptance shall be subject to the requirements of the SLDC and applicable statutes concerning the acceptance of each type of improvement and any offer of dedication, deed or easement. Subdivision approval does not impose on the County any duty regarding operation, maintenance or improvement of any dedicated lands or improvements parts until the Board adopts a resolution or ordinance formally accepting the dedication. Denial of subdivision approval shall be considered a refusal by the Board to accept a dedication indicated on the plat.

**5.10.4.2.** The County shall not have title to or responsibility for any improvements until the improvements have been accepted as provided in this subsection.

**5.10.4.3.** When improvements have been constructed in accordance with the standards and requirements of the SLDC, the conditions of approval in the final plat development order, the adopted development and subdivision improvement agreements, and approved as-built plans, the Administrator shall place the acceptance of the improvements and land dedications on the regular agenda of the Board, which may accept, reject or accept with conditions the dedication of the land and improvements.

**5.10.4.4.** The provisions in § 5.10.4.1 shall not relieve the applicant or the applicant's contractor of any responsibility for notifying the Administrator or other governmental entity, public or private utility, school, assessment or public improvement district of the completed work accompanied by a formal request for inspection of same, prior to acceptance. The Administrator and other approving authorities having jurisdiction shall inspect and approve all completed work prior to the release of any escrow funds, payment and performance bonds, letters of credit or other sureties.

**5.10.5. Site Cleanup.** The applicant and applicant's contractor shall be responsible for removal of all equipment, material, stockpiles of dirt or construction materials, and general construction debris from the subdivision and from any lot, road, public way, or property therein or adjacent thereto. Dumping of such debris into sewers, onto adjacent property, or onto other land in the County is prohibited and unlawful.

**5.10.6. Failure to Complete Improvements.** If the applicant or the applicant's contractor fails to install and construct the public improvements pursuant to the terms and conditions of the final development order, the construction plans and the development and subdivision improvement agreements, the Administrator shall:

**5.10.6.1.** declare the agreements and final plat approval to be in default and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreements are declared to be in default;

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**5.10.6.2.** obtain the escrow funds deposited for security, enforce the performance and payment surety bond or letter of credit and complete the public improvements by the County or through a third party contractor;

**5.10.6.3.** assign the County's right to receive funds pursuant to the deposit of escrow funds, any performance and payment bond or letter of credit, in whole or in part to any third party, in exchange for an agreement of the third party to provide a new performance and payment bond, escrow funds or a letter of credit in sufficient amount to complete the required public improvements; or

**5.10.6.4.** exercise any other rights available under the SLDC, the voluntary development agreement, the subdivision improvement agreement and state law.

## 5.11. SPECIAL PROCEDURES.

**5.11.1. Succeeding Subdivisions.** Any proposed subdivision may be combined and upgraded for classification purposes by the Board with a previous subdivision if the proposed subdivision includes:

**5.11.1.1.** a part of a previous subdivision that has been created in the preceding seven (7) year period; or

**5.11.1.2.** any land retained by an applicant after creating a previous subdivision when the previous subdivision was created in the preceding seven (7) year period.

**5.11.2. Vacation of Approved Plat.**

**5.11.2.1. Applicability**. Any final plat filed in the office of the county clerk may be vacated, or a portion of the final plat may be vacated, if:

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

**2.** the statement is approved by the Board~~.~~; and

**3.** if the plat, or portion of plat, to be vacated was initially approved through an administrative process, the Administrator may approve the vacation or partial vacation of the plat.

**5.11.2.2. Application.** The owners of all or a portion of the lots in any approved subdivision or land division, may initiate a plat vacation by filing an application with the Administrator. The application shall include the acknowledged statement required by § 5.11.2.1.1. The application requesting vacation of the plat and an application requesting a re-subdivision of the plat may be filed concurrently.

**5.11.2.3. Review.**

**1. Process.** The Administrator shall review and process the application and the acknowledged statement of plat vacation as provided Table 4-1. The application and acknowledged statement shall be approved, conditionally approved, or disapproved at a regular public meeting of the Board, or by the Administrator in accordance with Section 5.11.2.1.3. above.

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**2. Standards.** The Board shall approve the application for vacation on such terms and conditions as are reasonable to protect the public health, safety, and welfare. The Board shall not approve an application for vacation if it will adversely affect the interests of persons on contiguous land or persons within the subdivision being vacated.

**5.11.2.4. Roads.**

**1.** The Board may require that roads dedicated to the County in the final plat continue to be dedicated to the County.

**2.** The owners of parcels on the vacated portion of the final plat may enclose in equal proportions the adjoining roads and alleys that are authorized to be abandoned.

**5.11.2.5. Effect of Approval.** Upon the execution and recording of the vacating instrument, the plat shall be vacated. The rights of any utility existing prior to the vacation, total or partial, of any final plat are not affected by the vacation of a final plat. The re-subdivision of the land covered by a plat that is vacated shall be governed by the SLDC.

**5.11.2.6. Recording.** The development order declaring the vacation and the vacation plat shall be recorded in the manner prescribed for the approval and recording of the original final plat. The County Clerk shall write legibly on the vacated plat the word "vacated" or the phrase "partially vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

**5.11.3. Amendment of Final Plat.**

**5.11.3.1. Applicability.** A final plat may be amended for one or more of the following reasons:

**1.** to correct an error in a course or distance;

**2.** to add a course or distance that was omitted;

**3.** to correct an error in a real property description;

**4.** to locate monuments set after the death, disability, or retirement from practice of the professional engineer or surveyor responsible for setting monuments on the plat;

**5.** to designate the correct location or character of a monument that is shown incorrectly;

**6.** to correct any other type of scrivener or clerical error on the previously approved final plat, including lot numbers, acreage, road names, and identification of adjacent recorded plats;

**7.** to correct an error in courses and distances of lot lines between two adjacent lots where:

**a.** both lot owners join in the application,

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**b.** neither lot is abolished,

**c.** the amendment does not attempt to remove recorded covenants or restrictions; and

**d.** the amendment does not have a material adverse effect on the property rights of the other owners in the plat;

**8.** to relocate a lot line or easement to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

**9.** to relocate one or more lot lines between one or more adjacent lots or remove a lot line between adjacent lots if:

**a.** the owners of all those lots join in the application for amending the plat,

**b.** the amendment does not attempt to remove recorded covenants or restrictions, and

**c.** the amendment does not increase the number of lots.

**5.11.3.2. Application.** An applicant wishing to amend an approved final plat shall file with the Administrator the amendment plat, together with a copy of the final plat being amended and a statement detailing the basis for the amendments being proposed.

**5.11.3.3. Processing; Review.** The amendment plat shall be processed by the Administrator in the same manner as a minor subdivision. If the plat being amended has been recorded, the amendment plat shall be clearly marked as follows: *Amending plat of [name of development]. This plat amends the plat previously recorded in the County Clerk's records of Santa Fe County, at _____ [INSTRUMENT NUMBER] and _____ [BOOK AND PAGE]*.

**5.11.3.4. Recording.** The amendment plat shall be recorded as in the manner prescribed for the approval and recording of the original final plat. The County Clerk shall write legibly on the original final plat the word "amended" and shall enter on the final plat a reference to the volume and page at which the amendment plat is recorded. Once recorded, the amendment plat is controlling over the original final plat.

## 5.12. ADVERTISING STANDARDS.

**5.12.1. Advertising Requirements**. Brochures, disclosure statements, publications and advertising of any form relating to subdivided land shall:

**5.12.1.1.** not misrepresent or contain false or misleading statements of fact;

**5.12.1.2.** 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;

**5.12.1.3.** 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;

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

**5.12.1.5.** if subdivision illustrations are used, accurately portray the subdivision in its present state, and if illustrations are used portraying points of interest outside the subdivision, state the actual road miles from the subdivision;

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

**5.12.1.7.** 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

**5.12.1.8.** refer to where the applicant's disclosure statement may be obtained.

**5.12.2. Filing of Copies.** Copies of all brochures, publications, and advertising relating to subdivided land shall be filed with the Administrator and the Attorney General within fifteen (15) days after initial use by the applicant.

## 5.13. REQUIREMENTS PRIOR TO SALE, LEASE OR OTHER CONVEYANCE.

**5.13.1. Disclosure Statement.** Prior to selling, leasing or otherwise conveying any land in a subdivision, the applicant shall disclose in writing such information as required by NMSA 1978 § 47-6-8 and the Board 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 land. It is unlawful to sell, lease or otherwise convey land in a subdivision until:

**5.13.1.1.** the required disclosure statement has been filed with the county clerk, the Board and the attorney general's office; and

**5.13.1.2.** the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement.

**5.13.2. Substitute Disclosure.** Any applicant who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit his 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 applicant's statement of record shall be attached to the statement of record.

**5.13.3. Final Plat to Purchaser.** A copy of the final plat shall be provided to every purchaser, lessee or other person acquiring an interest in the subdivided land prior to sale, lease or other conveyance.

**5.13.4. Additional Statutory Conditions**. Pursuant to NMSA 1978 § 47-6-8, it is unlawful to sell, lease or otherwise convey land within a subdivision before the following conditions have been met:

**5.13.4.1.** the final plat has been approved by the Board and has been filed with the Santa Fe County Clerk. Where a subdivision lies in more than one county, the final plat shall be approved by the board of county commissioners of each county in which the

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subdivision is located and shall be filed with the county clerk of each county in which the subdivision is located;

**5.13.4.2.** the applicant has furnished the Board a sample copy of his sales contracts, leases and any other documents that will be used to convey an interest in the subdivided land; and

**5.13.4.3.** all corners of all parcels and blocks within a subdivision have been permanently marked with metal stakes in the ground and a reference stake placed beside one corner of each parcel.

## 5.14. APPEALS.

**5.14.1. Applicability.** Except as provided in this subsection, appeals regarding decisions made under this Chapter shall be addressed as provided in Chapter 4.

**5.14.2. Appeal of Administrative Decisions.** A party who is or may be adversely affected by a decision of a delegate of the Board, shall appeal the delegate's decision to the Board within thirty (30) days of the date of the delegate's decision. The Board shall hear the appeal and shall render a decision within thirty (30) days of the date the Board receives notice of the appeal. Thereafter, the procedure for appealing the decision of the Board in § 5.14.3 shall apply.

**5.14.3. Appeal of Board Decisions.** A party who is or may be adversely affected by a decision of the Board may appeal to the district court pursuant to the provisions of NMSA 1978 § 39-3-1.1.

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# Chapter 6 – Studies, Reports and Assessments (SRAs)

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# CHAPTER SIX – STUDIES, REPORTS AND ASSESSMENTS (SRAs)

## 6.1. GENERALLY.

**6.1.1. Purpose.** Studies, Reports, and Assessments (SRAs) facilitate the review of applications subject to discretionary review. The applicant shall prepare and submit the SRAs required by Table 4-1 in a form and format established in this chapter. SRAs shall be submitted at the time application is made. The pre-application TAC meeting required by Chapter 4 (see § 4.4 and Table 4-1) provide an opportunity for the applicant and staff to discuss and clarify the details of the required SRAs.

**6.1.2. Types.** Although SRAs are referred to collectively, they are comprised of individual studies, reports and/or assessments that may or may not be required for a particular project as set forth in table 6-1 below. The different SRAs are as follows, with reference to the applicable explanatory section of this chapter:

**6.1.2.1. Environmental Impact Report (EIR).** This report analyzes adverse effects and impacts on natural habitats and corridors; flood plains, floodways, stream corridors and wetlands; steep slopes and hillsides; air and water pollution; archeological, historical and cultural resources. See § 6.3.

**6.1.2.2. Adequate Public Facilities and Services Assessment (APFA).** This assessment indicates whether public facilities and services, taking into account the County's Capital Improvement and Service Program, are adequate to serve the proposed development project. See § 6.4.

**6.1.2.3. Water Service Availability Report (WSAR).** This report determines the permanent availability of and impacts to groundwater and surface water resources See § 6.5.

**6.1.2.4. Traffic Impact Assessment (TIA).** This assessment determines the effects of traffic created by the development upon County, state and local roads and highways. See § 6.6.

**6.1.2.5. Fiscal Impact Assessment (FIA).** This study describes the effects and impacts of the project upon County revenue and costs necessitated by additional public facilities and services generated by the development project and the feasibility for financing such facility and service costs. See § 6.7.

**6.1.3. Applicability.** Table 4-1 states generally whether SRAs are required to be submitted with a particular application, but it does not delineate which specific studies, reports and/or assessments are required. This specificity is included in Table 6-1 below, where the various document submittals are set forth by application type.

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**Table 6-1: Required Studies, Reports and Assessments (SRAs).**

| | SRA Type | | | | |
|---|---|---|---|---|---|
| **Application Type** | TIA | APFA | WSAR | ~~FIS~~FIA | EIR |
| Development Permit-non-residential (up to 10k sf)*** | yes* | no | no | no | no |
| Development Permit-non-residential (between 10k sf and 25,000 sf) | yes* | yes | as needed** | no | no |
| Development Permit-non-residential (over 25k sf) | yes* | yes | yes | yes | yes |
| Minor subdivision | yes | yes | no | no | no |
| Major subdivision 24 or fewer lots | yes* | yes | as needed | as needed | as needed |
| Major subdivision more than 24 lots | yes | yes | yes | yes | yes |
| Conditional Use Permit | yes* | as needed** | as needed** | as needed** | as needed** |
| Planned development | yes | yes | yes | yes | as needed** |
| Rezoning (zoning map amendment) | yes | no | yes~~+~~ | as needed** | as needed** |
| Development of Countywide Impact (DCI) Overlay or Conditional Use Permit | yes | yes | yes~~+~~ | yes | yes |

* See NMDOT State Access Manual
** As part of the pre-application TAC meeting process (see § 4.4), the Administrator will determine which SRAs are applicable based on the scope and impact of the proposed project.

**6.1.4. Discretion of Administrator.** The Administrator shall have the authority to exempt the applicant from a required SRA if the Administrator reasonably determines either that the information that would likely result from the study, report, or assessment is either (a) already known and can be supplied by other means, or (b) will have no reasonable bearing on the evaluation of the application.

**6.1.5. Non-limitation.** Nothing in the SLDC shall abrogate the County's authority to require the applicant to prepare necessary studies, analyses or reports required as a part of the development approval process.

## 6.2. PREPARATION AND FEES.

**6.2.1. Applicant prepared.** ~~Except for DCIs, an~~ An applicant for discretionary development approval shall prepare their own SRAs as required in this Chapter. The applicant shall deposit, as determined in the Fee Schedule approved by the Board, cash, a certified check, bank check or letter of credit, to cover all of the County's expenses in reviewing the SRA, including engaging consultants.

**6.2.2. ~~County prepared~~Expert Review.** The County may hire outside experts to review any of the submitted SRAs at the expense of the applicant in accordance with the approved fee schedule. ~~All SRAs concerning an application for approval of a DCI shall be prepared by the County. Upon submittal of an application for a DCI, the applicant shall pay to the Administrator the actual administrative cost and consultant fees of the SRAs in order to cover the costs of the County preparing the SRAs, including but not limited to, staff time and the employment of independent consultants retained by the County.~~

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**6.2.3. Project Overview Documentation.** In addition to the technical reports required under Table 6-1 and detailed below, every SRA submittal shall include basic project information to facilitate in the evaluation of the application. At a minimum, the project overview documentation shall include the following:

**6.2.3.1.** an accurate map of the project site, depicting: existing topography; public or private buildings, structures and land uses; irrigation systems, including but not limited to acequias; public or private utility lines and easements, under, on or above ground; public or private roads; public or private water or oil and gas wells; known mines; parks, trails, open space and recreational facilities; fire, law enforcement, emergency response facilities; schools or other public buildings, structures, uses or facilities; nonconforming building, structures or uses; environmentally sensitive lands; archaeological, cultural or historic resources; scenic vistas and eco-tourist sites; agricultural and ranch lands; and all other requirements of the Administrator as established at the Administrator's pre-application meeting with the applicant;

**6.2.3.2.** a detailed description of the development uses, activities and character of the development proposed for the project site;

**6.2.3.3.** the approximate location of all neighboring development areas, subdivisions, residential dwellings, neighborhoods, traditional communities, public and private utility lines and facilities, public buildings, structures or facilities, community centers, and other non-residential facilities and structures within one (1) mile of the site perimeter;

**6.2.3.4.** the approximate location, arrangement, size, floor area ratio (FAR) of any buildings and structures and parking facilities proposed for construction within the development project;

**6.2.3.5.** the proposed traffic circulation plan, including the number of daily and peak hour trips to and from the site and the proposed traffic routes to the nearest intersection with a state road or interstate;

**6.2.3.6.** the approximate location of all fire, law enforcement, and emergency response service facilities and all roads and public facilities and utilities shown on the capital improvement and services plan; floodways, floodplains, wetlands, or other environmentally sensitive lands and natural resources on the applicant's property; location of historic, cultural and archeological sites and artifacts; location of slopes greater than 15% and 30%; wildlife and vegetation habitats and habitat corridors within one (1) mile of the proposed project site perimeter;

**6.2.3.7.** a statement explaining how the proposed project complies with the goals, objectives, policies and strategies of the SGMP and any area or community plan covering, adjacent to, or within one (1) mile of the proposed project site perimeter;

**6.2.3.8.** a statement or visual presentation of how the project will relate to and be compatible with adjacent and neighboring areas, within a one(1) mile radius of the project site perimeter;

## 6.3. ENVIRONMENTAL IMPACT REPORT (EIR).

**6.3.1. EIR as Informational Document.** The EIR shall be prepared as a separate document apart from any other document required to be submitted by application of this Chapter. The EIR shall inform the County, the public and the applicant of the significant environmental effects and

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impacts of a project, identify possible ways to minimize the significant adverse effects or impacts, and describe reasonable alternatives to the project. The County shall consider the information in the EIR along with other information which may be presented to the County by the applicant or interested parties. While the information in the EIR does not control the County's ultimate discretion on the project, the EIR shall propose mitigation of each significant effect and impact identified in the EIR. No EIR or SRA prepared pursuant to this Chapter that is available for public examination shall require the disclosure of a trade secret, except where the preservation of any trade secret involves a significant threat to health and safety. No specific location of archaeological, historical or cultural sites or sacred lands shall be released to the public, but the EIR shall thoroughly discuss all environmental issues relating to a proposed project and affecting any such sites.

**6.3.2. Contents of Report.** The EIR shall consist of a series of elements which shall contain the information outlined in this section. Each required element shall be covered, and when these elements are not separated into distinct sections, the document shall state where in the document each element is discussed.

**6.3.3. Summary.** The EIR shall contain a summary of the proposed actions and their consequences. The language of the summary should be as clear and simple as reasonably practical. The summary shall identify:

**6.3.3.1.** Each significant adverse effect and impact with proposed mitigation measures and alternatives that would reduce or avoid that effect or impact;

**6.3.3.2.** Areas of potential controversy identified in the pre-application TAC meeting; and

**6.3.3.3.** Issues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects.

**6.3.4. Project Description.** The description of the project shall contain the following information but shall not supply extensive detail beyond that needed for evaluation and review of the environmental impact:

**6.3.4.1.** The precise location and boundaries of the proposed development project. Such location and boundaries shall be shown on a detailed topographical map. The location of the project shall also appear on a regional map.

**6.3.4.2.** A statement of the objectives sought by the proposed development project. The statement of objectives should include the underlying purpose of the project.

**6.3.4.3.** A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.

**6.3.5. Environmental Setting.** The EIR shall include a description of the physical environmental conditions in the vicinity of the project as they exist at the time the environmental analysis is commenced, from the County, area, community, regional, and state perspectives. This environmental setting will constitute the baseline physical conditions by which the County determines whether an adverse effect or impact is significant. Knowledge of the County and the regional setting is critical to the assessment of environmental impacts, and shall analyze environmental, archaeological, cultural, historic, habitat and scenic resources that are rare or unique to the County and region and would be affected by the project. The EIR shall demonstrate that the significant environmental effects and impacts of the proposed project were adequately

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investigated and discussed and it shall permit the significant adverse effects or impacts of the project to be considered in the full environmental context. A geotechnical investigation and report shall be required.

**6.3.6. Significant Environmental Effects.** The EIR shall identify and focus on the significant environmental effects of the proposed development project. In assessing the impact of a proposed project on the environment, the EIR shall limit its examination to changes in the existing physical conditions in the affected areas as they exist at the time environmental analysis is commenced. Direct and indirect significant effects and impacts of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects and impacts. The discussion shall include relevant specifics of the area, the resources involved, physical changes and alterations to soil conditions, water, environmentally sensitive lands and ecological systems, changes induced in the human use of the land, health and safety problems caused by physical changes, and other aspects of the resource base such as historical, cultural and archaeological resources, scenic vistas.

**6.3.7. Significant Environmental Effects Which Cannot Be Avoided.** The EIR shall describe significant adverse effects and impacts, including those which can be mitigated but not reduced to a level of insignificance. Where there are effects and impacts that cannot be alleviated without an alternative design, their implications and the reasons why the development project is being proposed shall be described.

**6.3.8. Significant Irreversible Environmental Changes.** Uses of nonrenewable resources during the initial and continued phases of the development project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary effects and impacts and, particularly, secondary effects and impacts (such as highway improvements required to provide access to a previously inaccessible area) generally commit future generations to similar uses. Irreversible damage can result from environmental and other accidents associated with the development project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified. Applicant shall comply with all federal and New Mexico statutes and regulations regarding climate change.

**6.3.9. Other Adverse Effects.** The EIR shall discuss other characteristics of the project which may significantly affect the environment, either individually or cumulatively. The EIR shall discuss the characteristics of the project which may decrease the area's suitability for other uses, such as mixed use, industrial, residential, commercial, historical, cultural, archaeological, environmental, public and non-profit facilities, eco-tourism or scenic uses.

**6.3.10. Mitigation Measures.**

**6.3.10.1.** The EIR shall identify mitigation measures for each significant environmental effect identified in the EIR, which impacts include but are not limited to: inefficient and unnecessary consumption of water and energy; degradation of environmentally sensitive lands; sprawl; and noise, vibration, excessive lighting, odors or other impacts.

**6.3.10.2.** Where several measures are available to mitigate an effect or impact, each shall be discussed and the basis for selecting a particular measure shall be identified. Formulation of mitigation measures shall be identified at the first discretionary approval and under no circumstances deferred until the ministerial development process. Measures shall specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.

**6.3.10.3.** Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant.

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**6.3.10.4.** If a mitigation measure would cause one or more significant effects and impacts in addition to those that would be caused by the project as proposed, the adverse effects and impacts of the mitigation measure shall be discussed.

**6.3.10.5.** Mitigation measures described shall be fully enforceable through conditions or a voluntary development agreement.

**6.3.10.6**. In some circumstances, documentation of a historical, cultural, or archaeological resource, by way of historic narrative, photographs or architectural drawings, as mitigation for any identified impacts will not serve to mitigate the effects and impacts to a point where clearly no significant effect or impact on the environment would occur. All of the following shall be considered and discussed in the draft EIR for a development project involving such a cultural, historic or archaeological site:

**1.** Preservation in place is the preferred manner of mitigating impacts to historic, cultural or archaeological sites. Preservation in place maintains the relationship between artifacts and the historical, cultural, and archaeological context. Preservation shall also avoid conflict with religious or cultural values of Indian communities associated with the site.

**2.** Preservation in place may be accomplished by, but is not limited to, planning construction to avoid all historical, cultural or archaeological sites; and incorporation of sites within parks, green-space, or other open space;

**3.** When data recovery through excavation is the only feasible mitigation, a data recovery plan which makes provision for adequately recovering the scientifically consequential information from and about the historical, cultural, or archaeological resource, shall be prepared and adopted prior to any excavation being undertaken. If an artifact must be removed during project excavation or testing, storage of such artifact, under proper supervision, may be an appropriate mitigation.

**4.** Data recovery shall not be required for an historical, cultural or archaeological resource if the appropriate entity determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the draft EIR.

### 6.3.11. Consideration and Discussion of Alternatives to the Proposed Project.

**6.3.11.1. Alternatives to the Proposed Project.** The EIR shall describe a range of reasonable alternatives to the project, or to the location, which would feasibly attain some of the basic objectives of the project but would avoid or substantially lessen the significant and adverse impacts or effects of the project, and evaluate the comparative merits of the alternatives, even if those alternatives would impede the attainment of the project objectives or would be more costly.

**6.3.11.2. Evaluation of alternatives.** The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant or adverse environmental effects and impacts of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant or adverse effects

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or impacts in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed.

**6.3.11.3. Selection of a range of reasonable alternatives.** The EIR shall briefly describe the rationale for selecting the alternatives to be discussed. The EIR shall also identify any alternatives that were considered but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the determination.

**6.3.11.4. "No project" alternative.**
The specified alternative of "no project" shall be evaluated along with its effects and impacts. The purpose of describing and analyzing a "no project" alternative is to allow a comparison of any adverse effects and impacts of the proposed project with effects and impacts if the project were not accomplished. The "no project" alternative analysis is not the baseline for determining whether the proposed project's environmental effects or impacts may be significant or adverse, unless it is identical to the existing environmental setting analysis which does establish that baseline.

**1.** The "no project" analysis shall discuss the existing conditions at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the development project were not approved, based on current plans and consistent with available infrastructure and community services. If the environmentally preferred alternative is the "no project" alternative, the draft EIR shall also identify an environmentally preferred alternative among the other alternatives.

**2.** A discussion of the "no project" alternative shall proceed as follows: (i) The "no project" alternative is the circumstance under which the development project does not proceed. Discussion shall compare the environmental effects of the property remaining in its existing state against the environmental and adverse effects which would occur if the project were to be approved; (ii) If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other development project, this "no project" consequence should be discussed. In certain instances, the no project alternative means "no build" so the existing environmental setting is maintained. However, where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project's non-approval.

**6.3.11.5. Feasibility.** Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic use and value viability, availability of infrastructure, jurisdictional boundaries (projects with a significant effect or impact should consider the county wide context), and whether the applicant can reasonably acquire, control or otherwise have access to an alternative site in the common ownership. No one of these factors establishes a fixed limit on the scope of reasonable alternatives.

**6.3.11.6. Alternative locations.** The essential issue for analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project should be included in the EIR. The EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

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**6.3.12. Organizations and Persons Consulted.** The EIR shall identify all federal, state, or local agencies, tribal governments, or other organizations or entities, and any interested persons consulted in preparing the draft.

**6.3.13. Discussion of Cumulative Impacts.** The EIR shall discuss cumulative effects of a project. A cumulative effect and impact is created as a result of the combination of the project evaluated in the EIR together with other development projects causing related effects and impacts. The discussion of cumulative effects and impacts shall reflect the severity of the effects and impacts and their likelihood of occurrence.

**6.3.13.1.** The discussion should focus on the cumulative effects and impacts to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative effect and impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

**1.** A list of past, present, and probable future development projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the County (when determining whether to include a related development project, factors to consider should include, but are not limited to, the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue or when an impact is specialized, such as a particular air pollutant or mode of traffic);

**2.** The EIR shall define the geographic scope of the area affected by the cumulative effect and impact and provide a reasonable explanation for the geographic scope utilized;

**3.** A summary of the expected environmental effects to be produced by those projects with the specific reference to additional information stating where that information is available;

**4.** A reasonable analysis of the cumulative impacts of the relevant projects. A draft EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects or impacts; and

**6.3.13.2.** Approved land use documents, including the SGMP and any applicable area, district or community plans, shall be used in cumulative impact analysis. A pertinent discussion of cumulative effects and impacts, contained in one or more previously certified final EIR development projects may be incorporated by reference.

## 6.4. ADEQUATE PUBLIC FACILITIES & SERVICES ASSESSMENT (APFA).

**6.4.1. Purpose and Implementation.** The Adequate Public Facilities and Services Assessment ("APFA") ties development approval of an application for a project to the present availability of infrastructure and public service capacity measured by levels of service ("LOS") adopted in Chapter 12. The provision of adequate public facilities in a timely manner is a necessary precondition to development in order to prevent sprawl, assure a positive fiscal impact for the County, provide a high quality of life through infrastructure and services, implement the goals, policies of the SGMP, and any applicable area or community plan, and protect the public health, safety and general welfare of the community.

**6.4.2. Requirements.** The review of adequacy of public facilities and services shall compare the capacity of public facilities and services to the maximum projected demand that may result from

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the proposed project based upon the maximum density in the project and relevant affected areas. The APFA shall study the impacts of the proposed development on all of the following:

**6.4.2.1. Roads.** The APFA shall calculate the LOS for roads consistent with Table 12-1. The impact of the proposed development shall be measured by average daily trips and peak-hour trips based upon the Transportation Research Board's "Highway Capacity Manual 2000". The APFA shall describe the means by which the transportation capacity of the system will be expanded without destroying historic and traditional built environment. For purposes of the APFA, average daily traffic assumes 10 trips per day per dwelling unit or building lot.

**6.4.2.2. Fire, Law Enforcement, and Emergency Response Services.** For Law Enforcement (including emergency dispatch), and Fire and Emergency Response, the APFA shall calculate the LOS consistent with Table 12-1. In determining the impact of the proposed development on fire, law enforcement, and emergency service LOS, the approving agency shall primarily take into consideration the number and location of available apparatus and fire, law enforcement, and emergency service stations.

**6.4.2.3. Water.** For water supply, if the County's water utility or water and sanitation district or a public water system provides potable water to a proposed development and has issued a letter indicating it is ready, willing and able to serve, no APFA is required for water. For a proposed development that does not propose the use of a public water system, the APFA shall demonstrate that the project will provide the LOS consistent with Table 12-1. The APFA shall analyze the availability of adequate potable water, and shall analyze all of the following information, as appropriate pursuant to Table 7-17:

**1.** System capacity and availability of water rights;

**2.** Capacity of the well field, or other source of raw water supply;

**3.** Historical average flow of potable water;

**4.** Historical peak flow of potable water;

**5.** Number of hook-ups and the estimated potable water demand per hook-up; and

**6.** Number of hook-ups for which contractual commitments have been made.

**7.** Development approval applications shall be analyzed with respect to the availability of adequate potable water supply, and shall be evaluated according to the following factors using the information provided in a Water Service Availability Report:

**a.** Whether a public water system with a forty-year water plan on file with the Office of the State Engineer has a forty (40) year supply of water is available to provide service;

**b.** Whether a grey water reuse system will be provided and whether that system is tied to a public or community sewer treatment facility;

**c.** Whether rainwater capture and reuse system will be used;

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**d.** Whether existing hook-ups and hook-ups for which contractual commitments have been made; and whether the estimated potable water demand per hook-up is excessive;

**e.** Whether the water service availability report provided substantial evidence that the project is within the service area of the County, or public or private water utility service area. If the ability of a provider to serve a proposed development is contingent upon planned facility expansion in accordance with a CIP, details regarding such planned improvements shall be submitted.

**6.4.2.4. Sewer.** The APFA shall demonstrate that the project will provide the LOS consistent with Table 12-1. The Applications shall be analyzed with respect to the availability of adequate sanitary sewer capacity, and shall be determined pursuant to the following information:

**1.** The public or private sewer system capacity;

**2.** Historical average daily flow of treated sewage;

**3.** Historical peak flow of treated sewage;

**4.** Number of hook-ups and estimated sewer demand per hook-up;

**5.** Number of hook-ups for which contractual commitments have been made;

**6.** The availability of hook up to the County or a PID public sewer system, or to a public or private community sewer treatment plant that provides tertiary sewage treatment; and

**7.** If the ability of a provider to serve a proposed development is contingent upon planned facility expansion in accordance with a CIP, details regarding such planned improvements shall be submitted.

**6.4.2.5. Community Parks, Recreation Areas, and Trails.** All County and community parks, recreation areas and trails shall be identified in the CIP and the land and right-of-way of those sites shall be placed on the Official Map. In determining compliance with the LOS standard for County and community parks, recreation areas and trails, nearby County or community parks, recreation areas or trails may be considered.

**6.4.2.6. Existing Deficiencies.** Subsection 12.2.3.2 of the SLDC describes the ramifications of an existing failure of infrastructure and services to meet the LOS specified in the SLDC. Existing deficiencies that affect the proposed development project shall be identified and any proposed projects that will address the deficiency in the CIP shall be identified.

**6.4.3. Future Available Capacity.** When a proposed development project is approved, the public facilities that the project utilizes shall be quantified and debited against available capacity for future projects.

**6.4.4. Mitigation**. The APFA may propose mitigation measures, or a combination of measures, as described in this section, as an alternative to denial of the application. These measures shall be included as a condition for approval of the application. Mitigation measures may include**:**

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**6.4.4.1.** Phasing of the project, so that no development approval is issued before roads or other transportation facilities needed to achieve the LOS standard are constructed;

**6.4.4.2.** Measures that allow the transportation network to function more efficiently by adding additional capacity to the off-site road system, including, but are not limited to: pavement widening or narrowing; turn lanes; median islands, access controls, or traffic signalization; and

**6.4.4.3.** Transportation congestion management measures that allow the transportation network to function more efficiently by adding sufficient capacity to the off-site road system.

**6.4.5. Approval of applications subject to discretionary action.** The discretionary development approval application may be approved if adequate public facilities and services are available at the adopted LOS, may be denied if adequate public facilities are not available, and may be conditionally approved subject to phasing of development until all public facilities are available for the year the CIP shows that adequate public facilities for the entire proposed development will be built at the adopted LOS. (See Table 4-1 for applications subject to discretionary review.)

## 6.5. WATER SERVICE AVAILABILITY REPORT.

**6.5.1.** A Water Service Availability Report is required to analyze the availability of adequate potable water for a proposed project. WSARs may include the use of groundwater supplies for water availability and additional review factors such as more detailed analysis of the basin or basins involved, the outcome of any adjudication of the resource, State Engineer reports on the source and an analysis of the sufficiency of the groundwater source to meet the projected water demand from the proposed project.

**6.5.2.** The applications of Applicants required to submit a WSAR shall be analyzed with respect to the availability of adequate potable water.

**6.5.3.** The WSAR shall contain a detailed analysis of the following matters: existing system capacity of the public water or wastewater supply proposed for use; capacity of a well field (as applicable), stream, spring, or other source of raw water supply (as applicable); historical average use of potable water; and historical peak use of potable water; the number of hook-ups and the estimated potable water demand per hook up; and the number of hook-ups for which contractual commitments have been made or previous development orders have been approved. Applications requiring use of the County system or a public water or wastewater system, as described on Tables 7-17 and 7-18 and the accompanying text, need only supply the letter from the relevant supplier agreeing to provide services.

**6.5.4.** The development order shall provide findings based on substantial evidence that the project is within its designated service area and that it has the capacity to serve the project as proposed. If the ability of a public or private utility or service provider to serve a proposed development is contingent upon planned facility expansion in accordance with a CIP, details regarding such planned improvements shall be submitted.

**6.5.5. The WSAR shall include:**

**6.5.5.1** An evaluation of the water supply as described in Section 7.13.6.1.

**6.5.5.2.** If the proposed development will rely on groundwater, the WSAR shall also include but not be limited to, the following:

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**1.** all application materials;

**2.** a copy of the latest Sanitary Survey from the New Mexico Environment Department conducted pursuant to 20.7.10 NMAC (2013) ("Wastewater and Water Supply Facilities") or, if a new system is proposed, a Preliminary Engineering Report consistent with the "Recommended Standards for Water Facilities," 2006, as amended;

**3.** in the case of a proposed final plat approval, a copy of the water permit issued by the State Engineer ;

**4.** an assessment of water supplies which addresses whether total projected water supplies available during normal, single-dry and multiple-dry water years during a 40* or 99* year projection will meet the projected water demand associated with the proposed project, taking into account existing and projected future planned use from the identified water supplies; *(see § 6.5.5.1 above)

**5.** an assessment of the ability of the proposed system to meet annual and peak demands;

**6.** identification of, and request to, any public or private water utility, system or company that has the capacity to supply water for the project for an assessment from each. The governing body of the water supplier shall approve the assessment at a regular or special meeting. The water supplier shall provide the assessment not later than thirty (30) days after receiving the request from the applicant or the Administrator;

**7.** if there is no public water system, or if the identified public water system supplier fails to deliver an assessment within the thirty (30) day period provided, then the County shall prepare the assessment after consulting with any domestic water supplier whose service area includes the project site, the State Engineer any public or private utility, system or company adjacent to the project site and the County's cost of preparation shall be charged to the applicant.

**6.5.5.3.** The WSAR shall identify relevant, existing water supply entitlements, water rights, or water service contracts, and describe the quantities of water received in prior years. The identification shall be demonstrated by the applicant providing information related to all of the following:

**1.** written contracts or other proof of entitlement to an identified water supply, including proof of a service commitment from a water provider if irrigation water rights that are appurtenant to the land at issue have been severed;

**2.** copies of a capital outlay program for financing the delivery of a water supply that has been adopted by the public water system;

**3.** federal, state, and local permits for construction of necessary infrastructure associated with delivering the water supply;

**4.** any necessary regulatory approvals that are required in order to be able to convey or deliver the water supply; and

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**5.** lists of all supply wells, production rates, and storage capacity of all water sources.

**6.5.5.4.** If no water has been received in prior years under an existing entitlement, right, or contract, the assessment shall identify other public water systems, water companies, or water service contract holders that receive a water supply or have existing entitlements, rights, or contracts, to the same source of water.

**6.5.5.5. Supplies to Remedy Insufficiency.** If the public water system's total projected water supplies available during a 40-year projection are insufficient, then the applicant shall identify plans to acquire additional supplies that may include, but are not limited to:

**1.** The estimated total costs, and the proposed method of financing the costs, associated with acquiring the additional water supplies for the development project;

**2.** All federal, state, and local permits, approvals, or entitlements that are anticipated to be required in order to acquire and develop the additional water supplies; and

**3.** The estimated timeframes within which the public water system or water company expects to be able to acquire additional water supplies.

**6.5.5.6. Groundwater.** If a water supply for a proposed project includes groundwater, the following additional information shall be included in the water supply assessment:

**1.** A review of any information contained in a water management plan relevant to the identified water supply for the proposed project;

**2.** A description of any groundwater basin or basins from which the proposed project will be supplied;

**3.** For those basins for which a court has adjudicated the rights to pump groundwater, a copy of the order or decree adopted by the court and a description of the amount of groundwater the public water system has the legal right to pump under the order or decree;

**4.** For basins that have not been adjudicated, information as to whether the State Engineer, pursuant to NMSA 1978, §§ 47-6-11.2, 72-5-1,72-5-23, 72-5-24, 72-12-3 and 72-12-7, has identified the basin or basins as over-drafted or has projected that the basin will become over-drafted if present management conditions continue, in the most current information of the State Engineer that characterizes the condition of the groundwater basin, and a detailed description by the public water system of the efforts being undertaken in the basin or basins to eliminate the long-term overdraft condition;

**5.** A detailed description and analysis of the amount and location of groundwater pumped by the public water system for the past five years from any groundwater basin from which the proposed project will be supplied. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records;

**6.** A detailed description and analysis of the amount and location of groundwater that is projected to be pumped by the public water system, from any basin from

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which the proposed project will be supplied. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records; and

**7.** An analysis of the sufficiency of the groundwater from the basin or basins from which the proposed project will be supplied to meet the projected water demand associated with the proposed project.

**6.5.5.7. County's Ability to Override Public Water Agency's Determination.** An evaluation of water quality, quantity and potential pollution of surface or underground water assessments shall be included in the EIR and in the WSAR. The County shall determine, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the project, in addition to existing and planned future uses. If the County determines that water supplies will not be sufficient, the County shall include that determination in its findings for the WSAR.

**6.5.5.8. Exceptions.** If the project has previously been the subject of an assessment that complies with the requirements of this section, then no additional water supply assessment shall be required for subsequent projects that were part of a larger development project for which water supplies were found sufficient. Exceptions include:

**1.** Changes in the development project that will substantially increase water demand;

**2.** Changes in circumstances that substantially affect the ability to provide a sufficient water supply, and

**3.** Significant new information as it becomes known.

**6.5.5.9. Water Quality.** The applicant shall provide:

**1.** an analysis of all aquifers to be used by the project;

**2.** an analysis of all contaminant pathways leading from the project site to the aquifers, including saturated sandy units within the aquifers and unsaturated or vadose zone map;

**3.** an unsaturated or vadose zone map; and

**4.** an analysis of baseline water quality relating to existing water wells.

## 6.6. TRAFFIC IMPACT ASSESSMENT (TIA).

**6.6.1. Purpose and Intent.** The purpose of the traffic impact assessment (TIA) is to identify the impacts on capacity, adopted LOS and safety, which are likely to be created by the proposed development project. The information in the Traffic Impact Assessment will be coordinated with the APFA and the EIR. The isolated and cumulative adverse effects and impacts of the proposed project to the traffic shed need to be understood in relation to the existing and future required capacity of the County and State road system, and to ensure that traffic capacity will be provided at established levels of service so as not to hinder the passage of law enforcement, fire and emergency response vehicles, construction vehicles to and from the project site, degrade the quality of life, or contribute to hazardous traffic conditions. The intent of this section is to establish requirements for the analysis and evaluation of adverse transportation effects and impacts associated with proposed development projects in order to provide the information

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necessary to allow the Board to assess the transportation effects and impacts of site-generated traffic associated with a proposed development project.

**6.6.2. [Reserved].**

**6.6.3. General Requirements.** The TIA shall follow the NMDOT State Access Manual requirements, which requires a general assessment for smaller impact projects which generate little traffic, and a detailed analysis for those projects that generate larger traffic volumes. These larger impact projects will require a detailed traffic impact assessment which shall identify the improvements needed to:

**6.6.3.1.** Ensure safe ingress to and egress from the site;

**6.6.3.2.** Maintain adequate road capacity on the County and State road system to accommodate all traffic to and from the site generated by the project;

**6.6.3.3.** Ensure safe and reasonable traffic operating conditions on roads and at intersections through which traffic to and from the site passes;

**6.6.3.4.** Avoid creation of, or mitigate, unsafe and hazardous traffic conditions from heavy weights of trucks traveling to and from the site;

**6.6.3.5.** Minimize the impact of nonresidential traffic on residential neighborhoods in the County;

**6.6.3.6.** Protect the substantial public investment in the existing road system;

**6.6.3.7.** Provide a basis for approving, modifying, or denying an application based upon the adequacy or deficiency of the County and State road systems to handle the needs generated by the project;

**6.6.3.8.** If applicable, after identifying any deficiency in road capacity as required by subsection 6.6.3.2. of the SLDC, determine, after taking into consideration improvements to be provided through development fees, improvements to be provided by the County through the mechanisms described in the CIP and through the mechanisms described in a voluntary development agreement or through an Improvement District how all infrastructure that is required will be provided;

**6.6.3.9.** Evaluate whether adequate traffic capacity exists or will be available at the time a development order is granted for the application to safely and conveniently accommodate the traffic generated by the project on the County and State road system;

**6.6.3.10.** Evaluate traffic operations and impacts at site access points under projected traffic loads;

**6.6.3.11.** Evaluate the impact of site-generated traffic on affected intersections in the County;

**6.6.3.12.** Evaluate the impact of site-generated traffic on the safety, capacity and quality of traffic flow on public and private roads within the County;

**6.6.3.13.** Evaluate the impact of the proposed project on residential roads from the traffic to and from the site;

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**6.6.3.14.** Ensure that site access and other improvements needed to mitigate the traffic impact of the development utilize County and State accepted engineering design standards and access management criteria;

**6.6.3.15.** Ensure that the proposed road layout is consistent with the public roadway design standards;

**6.6.3.16.** Ensure the proper design and spacing of site access points and identify where limitations on access should be established;

**6.6.3.17.** Ensure that potential safety problems on all roads to be used within the County have been properly evaluated and addressed; and

**6.6.3.18.** Ensure that internal circulation patterns will not interfere with traffic flow on the existing County and State road system.

**6.6.4. Traffic Service Standards.** The standards for traffic service that shall be used to evaluate the findings of traffic impact assessment are as follows:

**6.6.4.1. Volume of traffic.** To address the proposed volume of traffic, the traffic impact report shall use Table 12-1 to determine the adopted LOS for the roads considered in the application for development. For additional detail and reference, see § 10.2.2.2 of the SGMP which relates the six (6) levels of service to the Transportation Research Board *Highway Capacity Manual* and the Geometric Design for Highways and Streets ("Green Book") (2011, as amended) of AASHTO.

**6.6.4.2. Level of service.** See Table 12-1 for adopted LOS. Where the existing LOS is below these standards, the traffic impact report shall identify those improvements or transportation demand management techniques needed to maintain the existing LOS, and what additional improvements would be needed to raise the LOS to the standards indicated for the development project to be approved.

**6.6.4.3. Number of access points**. The number of access points provided shall be the minimum needed to provide adequate access capacity for the site. Evidence of LOS C operations for individual County and State road movements at access locations is a primary indication of the need for additional access points. However, the spacing and geometric design of all access points shall be consistent with the access management criteria of the SLDC.

**6.6.4.4. Residential road impact.** Average daily traffic impinging on residential roads shall be within the ranges spelled out in the transportation plan for the class of road involved.

**6.6.4.5. Traffic flow and progression.** The location of new traffic signals or proposed changes to cycle lengths or timing patterns of existing signals to meet LOS standards shall not interfere with the goal of achieving adequate traffic progression on major public roads in the County.

**6.6.4.6. Vehicle storage.** The capacity of storage bays and auxiliary lanes for turning traffic shall be adequate to insure that turning traffic will not interfere with through traffic flows on any public road.

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**6.6.4.7. Internal circulation.** On-site vehicle circulation and parking patterns shall be designed so as not to interfere with the flow of traffic on any public road and shall accommodate all anticipated types of site traffic.

**6.6.4.8. Safety.** Access points and travel along all County and State roads within the County shall be designed to provide for adequate sight distance and appropriate facilities to accommodate acceleration and deceleration of site traffic. Where traffic from the proposed development project will impact any location with an incidence of high accident frequency, the accident history should be evaluated and a determination made as to whether the proposed site access or increased traffic will mitigate or aggravate the situation. The applicant shall be required to design the site access in order to mitigate any impact on location safety.

**6.6.5. Contents.** A traffic impact assessment shall contain the following information:

**6.6.5.1. Site Description.** Illustrations and narratives that describe the characteristics of the site and adjacent land uses as well as future development projects for all transportation to and from the site to the nearest state road or interstate. A description of potential uses and traffic generation to be evaluated shall be provided. A description of the proposed development project, including access and staging plans shall be provided.

**6.6.5.2. Study Area.** The study area shall identify the roadway segments, and all intersections of roads classified as sub-collector or larger and access points for all transportation routes from the site to the nearest state road or interstate.

**6.6.5.3. Existing Traffic Conditions.** A summary of the data utilized in the study and an analysis of existing traffic conditions, including:

**1.** Traffic count and turning movement information, including the source of and date when traffic count information was collected;

**2.** Correction factors that were used to convert collected traffic data into representative design-hour traffic volumes;

**3.** Roadway characteristics, including the design configuration of existing or proposed roadways, existing traffic control measures (e.g., speed limits and traffic signals), and existing driveways and turning movement conflicts in the vicinity of the site; and

**4.** Identification of the existing LOS for roadways and intersections without project development traffic, using methods documented in the Highway Capacity Manual or comparable accepted methods of the latest International Traffic Engineers (ITE) evaluation. LOS should be calculated for the weekday peak hour and, in the case of uses generating high levels of weekend traffic, the Saturday peak hour.

**6.6.5.4. Horizon Year(s) and Background Traffic Growth.** The horizon year(s) that were analyzed in the study, the background traffic growth factors for each horizon year, and the method and assumptions used to develop the background traffic growth. For each defined horizon year specific time periods are to be analyzed. In the case of construction and development operations, this time period shall be the weekday peak hours. The impact of the project shall be analyzed for the year after the project is completed and 20 years after the development is completed.

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**6.6.5.5. Trip Generation, Reduction, and Distribution.** A summary of the projected peak hour and average daily trip generation for the proposed project, illustrating the projected trip distribution of trips to and from the site to the nearest state road or interstate, and the basis of the trip generation, reduction, and distribution factors used in the study. A summary of all vehicle types and vehicle weights to be generated from the proposed development.

**6.6.5.6. Traffic Assignment.** The projected design-hour traffic volumes for roadway segments, intersections, or driveways in the study area, with and without the proposed development, for the horizon year(s) of the study.

**6.6.5.7. Impact Analysis.** The impact of traffic volumes of the projected horizon year(s) relative to each of the applicable traffic service standards and identification of the methodology utilized to evaluate the impact. The weekday peak-hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation.

**6.6.5.8. Mitigation/Alternatives.** In situations where the traffic LOS standards are exceeded, the traffic impact assessment shall evaluate each of the following alternatives for achieving the traffic service standards by:

**1.** Identifying where additional rights-of-way are needed to implement mitigation strategies;

**2.** Identifying suggested phasing of improvements where needed to maintain compliance with traffic service standards; and

**3.** Identifying the anticipated cost of recommended improvements.

**6.6.5.9.** If the applicant fails to advance the improvements in accordance with Chapter 12, the application for the development approval may be denied for lack of adequate transportation system capacity, safety, and design.

**6.6.5.10.** At a minimum, the applicant shall be required, at the time of development approval, to pay for applicant's roughly proportional share of the cost for construction, operation and maintenance of all roads in the CIP for transportation facilities for the area in which development project is located. If such roughly proportional share is insufficient to meet traffic adequacy, the applicant may, through a voluntary development agreement, voluntarily advance the cost of additional roadway system improvements and shall be reimbursed when and as additional development projects are approved.

**6.6.6. Traffic Impact Assessment Findings.** If the traffic consultant finds that the proposed project will not meet applicable LOS, the traffic consultant shall recommend one or more actions by the County or the applicant, including but not limited to:

**6.6.6.1.** Reduce the size, scale or scope of the development to reduce traffic generation;

**6.6.6.2.** Divide the project into phases and authorize only one phase at a time until traffic capacity is adequate for the next phase of development;

**6.6.6.3.** Dedicate a right-of-way for road improvements;

**6.6.6.4.** Construct new roads;

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**6.6.6.5.** Expand the capacity of existing roads;

**6.6.6.6.** Redesign ingress and egress to the project to reduce traffic conflicts;

**6.6.6.7.** Reduce background (existing) traffic;

**6.6.6.8.** Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development;

**6.6.6.9.** Integrate design components to reduce vehicular trip generation;

**6.6.6.10.** Implement traffic demand management strategies (e.g., carpool or vanpool programs, and flex time work hours), to reduce vehicular trip generation; or

**6.6.6.11.** Recommend denial or conditional approval of the application for the development project.

**6.6.7. Expiration of TIA.** A TIA shall expire and be no longer valid for purposes of this section on a date which is three (3) years after its creation.

## 6.7. FISCAL IMPACT ASSESSMENT.

**6.7.1. Generally.** The fiscal impact assessment involves a study of the fiscal implications of development in the County. Development will be permitted only after a determination of the adequacy and financial provision for public facilities and services including but not limited to public works and operational costs for additional public works, park, law enforcement, fire and emergency response service full time employees and technicians to construct, operate, service and maintain roads, storm water management systems, fire, law enforcement, emergency response trails, parks, open space, scenic vista sites, environmentally sensitive areas and historic, cultural and archeological artifacts and sites.

**6.7.1.1.** The fiscal impact assessment shall project adopted levels of service for law enforcement, fire and emergency response service to affected areas of the County. The assessment shall estimate the threshold minimum number of full time paid public service workers necessary to provide fire, law enforcement, emergency response service, road, drainage, environmentally sensitive areas and historic, cultural and archaeological artifacts and site necessary for maintenance and operation of the facilities and services.

**6.7.1.2.** The fiscal impact assessment shall estimate the public service costs for new workers and worker families brought into a development project area.

**6.7.2. Determination of Costs and Revenues.**
The fiscal and economic effects of development shall be determined using nationally accepted and longstanding fiscal and economic models. The fiscal and economic models shall project what shall be needed in terms of public operating and maintenance services and provision of capital facilities and determine what funds will be available to pay for these facilities and services.

**6.7.2.1.** Costs shall be determined using current budgets, both operating and capital interviews with service providers to determine areas of deficient capacity and service where additional expenditures will be necessary.

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**6.7.2.2.** Revenues shall be determined using budgets and formulas for calculating additional taxes, infrastructure and service fees, licenses, administrative fees, grants and improvement district assessments.

**6.7.2.3.** The fiscal impact assessment shall assess the extent, a development project fiscally and economically impacts the County.

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# Chapter 7 – Sustainable Design Standards

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# CHAPTER 7 – SUSTAINABLE DESIGN STANDARDS

**7.1. APPLICABILITY.** The development standards of this section shall be applicable to all development, except as otherwise specified herein. Development approval shall not occur unless the applicant demonstrates compliance with all applicable standards of this chapter.

**7.2. FIRE AND BUILDING CODES**. In addition to the requirement of the SLDC, all development shall comply with the most current applicable codes adopted by the State of New Mexico, Santa Fe County and other entities, including but not limited to the following:

**7.2.1. International Fire Code, 2003 edition,** as adopted by 10.25.2 NMAC ("Fire Prevention and Public Occupancy").

**7.2.2. New Mexico Commercial Building Code** as adopted by 14.7.2 NMAC ("2009 New Mexico Commercial Building Code") which adopts by reference the 2009 International Building Code**.**

**7.2.3. New Mexico Residential Building Code** as adopted by 14.7.3 NMAC ("2009 New Mexico Residential Building Code"), which adopts by reference the 2009 International Residential Building Code**.**

**7.2.4. New Mexico Earthen Building Materials Code** as adopted by 14.7.4 NMAC ("2009 New Mexico Earthen Building Materials Code")**.**

**7.2.5. New Mexico Non-Load Bearing Baled Straw Construction Building Standards** as adopted by 14.7.5 NMAC ("2009 New Mexico Commercial Building Standards")**.**

**7.2.6. New Mexico Energy Conservation Code** as adopted by 14.7.6 NMAC ("2009 New Mexico Energy Conservation Code")**.**

**7.2.7. New Mexico Existing Building Code** as adopted by 14.7.7 NMAC ("2009 New Mexico Existing Building Code")**.**

**7.2.8. New Mexico Historic Earthen Buildings** as adopted by 14.7.8 NMAC ("2009 New Mexico Historic Earthen Buildings")**.**

**7.2.9. New Mexico Plumbing Code** as adopted by 14.8.2 NMAC ("2009 New Mexico Plumbing Code"), which adopts by reference the 2009 Uniform Plumbing Code**.**

**7.2.10. New Mexico Swimming Pool, Spa and Hot Tub Code** as adopted by 14.8.3 NMAC ("New Mexico Swimming Pool, Spa and Hot Tub Code"), which adopts the 2009 Uniform Swimming Pool, Spa and Hot Tub Code.

**7.2.11. New Mexico Mechanical Code** as adopted by 14.9.2 NMAC ("2009 New Mexico Mechanical Code"), which adopts the 2009 Uniform Mechanical Code**.**

**7.2.12. New Mexico Solar Energy Code** as adopted by 14.9.6 NMAC ("2009 New Mexico Solar Energy Code"), which adopts the 2009 Uniform Solar Energy Code**.**

**7.2.13. New Mexico Electrical Code** as adopted by 14.10.4 NMAC ("2011 New Mexico Electrical Code"), which adopts the 2011 National Electrical Code**.**

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**7.2.14. New Mexico Electrical Safety Code** as adopted by 14.10.5 NMAC ("2007 New Mexico Electrical Safety Code"), which adopts the 2007 National Electrical Safety Code**.**

**7.2.15. Santa Fe County Urban Wildland- Interface** Code, as adopted by County Ordinance No. 2001-11.

**7.2.16. Santa Fe County Fire Code (as applicable).**

**7.2.17 New Mexico Night Sky Protection Act**, enacted as NMSA 1978, §§ 74-12-1 to 24-12-11.

## 7.3. RESIDENTIAL PERFORMANCE STANDARDS (LOTS, BLOCKS AND SETBACKS).

### 7.3.1. Lots.

**7.3.1.1. Lot Area.** The area of a lot shall include the total horizontal surface area within the lot's boundaries, excluding existing and dedicated or conveyed public rights-of-way.

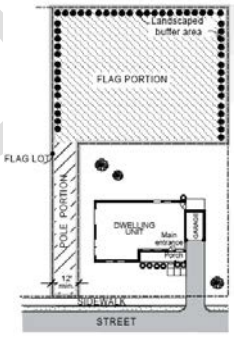
**7.3.1.2. Buildings to be on a Lot.** Except as permitted in Planned Development districts, every building shall be located on an individual lot.

**7.3.1.3. Compliance with Zoning District Regulations.** The size, width, depth, shape, use, and orientation of lots shall comply with the applicable zoning district regulations.

**7.3.1.4. Frontage.** All lots shall front on a public or private road and shall have a minimum frontage width as indicated in the zoning district regulations. On irregularly shaped lots, a minimum road frontage of fifteen (15) feet is required. An "irregularly shaped lot" includes any lot located on a cul-de-sac or abutting a curved section of a roadway with a centerline radius of less than 200 feet. (Residential lots shall not front on a collector road or arterial road.)

**7.3.1.5. Double Frontage Lots.** Double frontage or through lots are prohibited except in commercial or industrial districts. A double frontage lot is not created when an alleyway is provided. Double frontage lots may be permitted when creation of such a lot cannot be avoided due to the circumstances existing on the property.

**7.3.1.6. Flag Lots.** Flag lots are prohibited except when creation of such a lot cannot be avoided due to the circumstances existing on the property.




**7.3.1.7. Reduction of Lot Size by Governmental Action.** Where the owner of a legally platted lot has a lot reduced in size as a result of governmental action and does not own sufficient land to enable the lot to conform to the dimensional requirements of the SLDC, such lot may be used as a building site for a single family residence or nonresidential use

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permitted in the district in which the lot is located.

**7.3.2. Blocks.**

**7.3.2.1. Lots to be Contiguous.** Lots shall be arranged in a contiguous pattern within blocks or abutting a cul-de-sac. In minor subdivisions all lots shall be contiguous, and any new lots subdivided from a tract that has been previously subdivided shall adjoin the existing lots.

**7.3.2.2. Block Width.** Blocks in the interior of a subdivision shall have sufficient width to provide for two tiers of lots. One tier of required block width is permitted in blocks adjacent to collector or arterial roads. Not more than two tiers of lots shall be provided for any block.

**7.3.3. Setbacks.**

**7.3.3.1. Generally.** Setbacks refer to the unobstructed, unoccupied open area between the furthermost projection of a structure and the property line of the lot on which the structure is located. Setbacks shall be unobstructed from the ground to the sky except as specified in this subsection.

**7.3.3.2. Road Setbacks Shown on Plats.** Front and side setbacks adjacent to roads shall be shown on all plats as required by the SLDC. The setbacks provided are minimum setbacks; an applicant may elect to create greater setbacks.

**7.3.3.3. Highway Setbacks.** Unless established through a right-of-way, all development shall be setback at least 150 feet from the road pavement of a federal highway and 100 feet from a highway, major arterial or railroad.

**7.3.3.4. Fire Resistant Materials.** A reduced side yard setback may be permitted where fire resistant materials are used consistent with the New Mexico Fire Code and the Santa Fe County Fire Code. The road, side, and rear setback standards shall apply around the perimeter of an attached housing development.

**7.3.3.5. Commercial and Industrial Zones.** Notwithstanding anything to the contrary in the Setback Table, a setback of 100 feet from the property line is required between any residential district and any structures or uses within a commercial or industrial district. For purposes of this paragraph, the phrase "commercial district" shall not include the MU zone.

**7.3.3.6. Acequia Easements.** All structures, excluding walls and fences, must be set back a minimum of 15 feet from the centerline of any acequia, ditch, lateral or drain under the authority of an acequia association, organization or irrigation district. Minimum setback requirement can be waived if easement is otherwise prescribed by a recognized acequia association or irrigation district. Applicants shall provide notice to impacted acequia associations, organizations or irrigation districts of development projects within 25 feet of an acequia, ditch, lateral or drain.

**7.3.3.7. Dimensional Requirements.** The dimensions of required setbacks are provided in the following Setback Table~~:~~. The setback standards do not apply to fences or walls.

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**Tabe 7-A: Setback Table**

| Zoning District | Front Setback (Min) ft | Front Setback (Max) ft | Side Setback (Min) ft | Rear Setback (Min) ft |
|---|---|---|---|---|
| Agriculture/Ranching **(A/R)** | 25 | n/a | 50 | 50 |
| Rural **(RUR)** | 25 | n/a | 25 | 25 |
| Rural Fringe **(RUR-F)** | 25 | n/a | 25 | 25 |
| Rural Residential **(RUR-R)** | 20 | n/a | 25 | 25 |
| Residential Fringe (**RES-F)** | 10 | n/a | 25 | 25 |
| Residential Estate (**RES-E)** | 10 | n/a | 25 | 25 |
| Residential Community **(RES-C)** | 5 | n/a | 5 | 5 |
| Traditional Community **(TC)** | 5 | n/a | 5 | 5 |
| Commercial General (**CG)** | 5 | 100 | 0 | 30 |
| Commercial Neighborhood (**CN)** | 5 | 100 | 0 | 30 |
| Industrial **(I)** | 20 | n/a | 30 | 30 |
| Mixed Use **(MU)** | 0 | n/a | 0* | 5 |
| Public/Institutional **(PI)** | 5 | n/a | 10 | 25 |

*No interior side setbacks are required in the MU district, except when residential uses abut non-residential uses, in which case the minimum side setback shall be 25 feet. If a commercial use in an MU district abuts a residential zone adjacent to the MU district, then the setback shall be equal to that of the adjacent residential zone.

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**7.3.3.8. Exceptions to Setback Requirements.** Notwithstanding other provisions to the contrary, the following exceptions to setback requirements shall apply provided that a ten foot distance between structures is maintained:

**1**. Fences and walls may be allowed within required setbacks;

**2.** Chimneys, flues, or smokestacks may extend into setbacks but may not occupy more than twenty (20) square feet of the setback;

**3.** Sills and ornamental features may project up to two (2) feet into any setback;

**4.** Fire escapes may project up to five (5) feet into any required setback;

**5.** Cornices and eaves may extend up to five (5) feet into required setback, but shall remain at least two (2) feet from the property line.

**6.** Marquee signs and awnings may extend into setback;

**7.** Security gates and guard stations may be located within required setback;

**8.** At-grade patios, decks, uncovered terraces, uncovered steps and handicapped access ramps may extend into any required setback;

**9.** Mechanical equipment for residences may extend into required setback but shall remain at least five feet from the property line;

**10.** Bay windows, entrances, balconies, portals, and similar features may extend up to two feet into required setbacks, but shall remain at least five feet from the property line;

**11.** Pedestrian, bike or equestrian pathways or trails, leach fields and retention ponding may be permitted in required setbacks; and

**12.** Garages with alley access may extend into the rear setback.

**7.3.3.9. Reduction in Setbacks.** Setbacks may be reduced as described below through use of landscaping.

**1.** The setback described in subsection 7.3.3.3. may be reduced to seventy-five (75) feet if a landscaped buffer is created using trees with a minimum height at maturity of twenty (20) feet, twenty-five (25) feet wide, at a ratio of one tree for every 350 square feet. Existing trees may be utilized in determining the number of trees to be planted, provided that at least one third of the trees are evergreens.

**2.** The setback described in subsection 7.3.3.3. may be reduced to fifty (50) feet if a landscaped buffer is created using trees with a minimum height at maturity of thirty (30) feet and shrubs with a minimum height at maturity of twelve (12) feet, twenty-five (25) feet wide, at a ratio of one tree for every 300 square feet and one shrub for every 350 square feet. Existing trees may be utilized in determining the number of trees to be planted, provided that at least one third of the trees are evergreens.

**3.** Further reductions of setbacks may be considered where a combination of

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trees and the construction of a solid masonry wall is proposed, or where a combination of trees and an earth berm of three to four feet in height is proposed to be constructed. The ratio of trees to square footage will depend on the variables of the site and nuisance factors to be mitigated.

## 7.4. ACCESS AND EASEMENTS.

**7.4.1. General Access Requirement.** All development shall provide access for ingress and egress, utility service, and fire protection whether by public access and utility easement or direct access to a public right-of-way. No structures are permitted to be built within or obstructing a platted access easement.

**7.4.2. Access and Utility Easements.**

**7.4.2.1. Access Easements.** Except as provided in § 5.8, legal access shall be provided to each lot through an appropriate easement, deed or plat dedication.

**7.4.2.2. Utility Easements.** Easements shall be provided for utility services including, but not limited to, water, sanitary sewer, gas, electric, and communications (cable/internet/phone). Utility easements shall have a minimum width of seven and one-half (7½) feet, except where a transformer or other facility is required, in which case adequate provision for that facility or transformer shall be made. Where multiple utilities share the same easement, additional width sufficient to avoid conflict shall be provided. Easements shall be established to provide continuity of alignment throughout the area to be served and to adjoining areas. Utility easements shall be located such that each lot can be served by all proposed utilities.

**7.4.2.3. Combined.** Access and utility easements shall be combined unless the utility company dictates otherwise, or where topographical conditions, existing utility easements, or other conditions dictate otherwise. In such cases, utility easements may be placed parallel to access easements so that maintenance of utility lines will not create the need to disturb a road or driveway. Utility trenches shall be placed within easements in or adjacent road or driveway easements or rights-of-way where possible, except where alternate locations are required for gravity flow of water or sewer or where a significant reduction in line length and terrain disturbance would be achieved by cross country easements and trenching.

**7.4.3. Drainage Easements.** Where a property is traversed by a water course, drainage conveyance, channel or stream, a storm water or drainage easement shall be established which conforms substantially with such water course. All drainage components, including detention or retention basins, water courses, acequias, drainage conveyances, channels or streams which impact more than one lot, shall be included in drainage easements.

**7.4.4. Trail Easements.** When and where provided, trail easements shall have a minimum width of twenty (20) feet to provide access for maintenance, except where necessary to accommodate terrain or other site-specific conditions.

**7.4.5. Fire and Emergency Access Easements.** Emergency access easements shall be not less than twenty (20) feet in width and shall remain at all times clear of obstructions including vehicles, structures, trees, shrubs and similar landscaping.

**7.4.6. Cross-Access Easements for Non-residential, Multi-Family and Mixed Uses.**

**7.4.6.1.** If a parcel is to be developed for any nonresidential, multi-family or mixed use, a

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cross-access easement shall be provided to adjoining properties that are similarly zoned and that front on the same road,.

**7.4.6.2.** Cross-access easements shall have a minimum width of thirty (30) feet and shall be situated parallel to the road providing primary access. Cross-access easements shall be maintained by the property owner(s).

**7.4.6.3.** This requirement may be waived were unusual site conditions render such an easement of no reasonable benefit to adjoining properties or to public safety.

## 7.5. FIRE PROTECTION.

All development shall comply with the New Mexico Fire Code (or other applicable fire code as established by NMAC 10.25.5.18), and the Santa Fe County Fire Code.

## 7.6. LANDSCAPING AND BUFFERING.

**7.6.1. Applicability.** Except for the provisions of subsection 7.6.3 which applies to all development, this section shall apply only to non-residential, mixed-use, multi-family development, and to all subdivisions.

**7.6.2. Purpose and Intent.** The standards of this section are intended to accomplish the following:

**7.6.2.1.** Assure that new development creates an amenity and improves and enhances the visual quality of an area;

**7.6.2.2.** Provide a buffer or screen between uses and roadways and residential areas;

**7.6.2.3.** Provide habitat and habitat corridors;

**7.6.2.4.** Prevent air and noise pollution;

**7.6.2.5.** Shade, cool and define large parking areas;

**7.6.2.6.** Define the separate function of thoroughfares and other land uses;

**7.6.2.7.** Promote revegetation of disturbed sites, minimize erosion, dust and slope instability;

**7.6.2.8.** Assure that landscaping is designed, installed and maintained to conform to the SLDC;

**7.6.2.9.** Preserve native vegetation and landscapes, and protect the visual and structural integrity of hillsides and mountainous areas from the deleterious effects of development; and

**7.6.2.10.** Promote conservation of water through the use of drought tolerant plant materials and xeriscape techniques.

### 7.6.3. Preservation of Existing Vegetation.

**7.6.3.1.** To the extent practicable, existing vegetation shall be preserved and incorporated into landscape plans. Existing vegetation shall be protected during site development;

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vegetation may be cleared but shall be limited to the footprint area of structures and a reasonable area for construction operations, and all cleared areas shall be replanted to approximately the original density and vegetation mix.

**1. General Preservation Standards.**

**a.** Transplantable trees displaced by construction shall be the primary source for required screening, buffering or landscaping.

**b.** Native trees, shrubs and landscape shall be retained within any landscape areas set aside for setbacks.

**c.** Permanent installation of retaining walls, terracing and tree wells shall be used to protect trees in areas where significant grade changes are made.

**2. Significant Trees.**

**a.** Removal of significant trees or damage to the critical root zone of significant trees outside of the buildable area is prohibited. Permanent installation retaining walls, terracing and tree wells should be utilized to protect significant trees in areas where significant grade changes are made.

**b.** Significant trees shall not be removed from the slopes greater than thirty percent (30%).

**7.6.3.2. Xeriscape Requirements.** Only native or introduced vegetation that is drought and/or freeze resistant shall be used for landscaping. A list of suitable native plants shall be on file with the Administrator.

**7.6.4. Landscaping for Non-Residential Uses.**

**7.6.4.1.** For all non-residential and multi-family development that is not already buffered by the requirements of subsection 7.6.4, a landscaped area twenty-five (25) feet in width shall be provided at the front of the property that abuts a public right of way that serves a highway or arterial and a landscaped area ten (10) feet in width shall be provided at the front of property that abuts a public right of way that serves a collector or local road.

**7.6.4.2.** The landscaping shall include a combination of trees, shrubs, grasses and flowers, ground cover or other organic and inorganic materials.

**7.6.4.3.** Evergreens and canopy or shade trees shall predominate; ornamental trees and shrubs and smaller native trees may be interspersed in groups which simulate natural tree stands.

**7.6.5. Screening.** Any non-residential or multi-family use that is located adjacent to a residential use, whether in an adjacent zone or as an approved non-residential use within in a mixed-use or residential zone, shall provide screening to a height of not less than six feet for the adjacent residential uses.

**7.6.6. Parking Area Landscaping.**

**7.6.6.1.** Landscaping within parking lots shall be designed to shade the parking spaces

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and provide a visual break to the parking lot surface in accordance with the requirements of this subsection.

**7.6.6.2.** Parking lots containing more than forty (40) or more parking spaces or are 12,000 square feet in total area, whichever is less, shall provide parking area landscaping as described in this subsection; provided, however, that the standards of this subsection shall not apply to vehicle/equipment storage lots or vehicle and equipment sales lots.

**7.6.6.3.** Parking areas containing 100 or more parking spaces shall provide landscaping in total area equal to least 10 percent of the total area of the parking lot. Parking areas containing between forty (40) and ninety-nine (99) parking spaces shall provide landscaping in total area equal to five (5%) percent .

**7.6.6.4.** Landscaped islands shall be provided at the end of each parking row containing ten (10) or more spaces.

**7.6.6.5. Divider Medians.** Divider medians that form a continuous landscaped strip may be installed between abutting rows of parking spaces. The minimum width of divider medians shall be five feet if wheel stops or raised curbs prevent vehicle overhang of the median. If vehicle overhang is allowed, the minimum width shall be eight feet.

**7.6.6.6. Plant Units.** Plant units shall be provided within the interior of off-road parking areas in accordance with Table 7-1 and the following:

**Table 7-1: Planting Requirements for Off-Road Parking Areas.**

| Required parking spaces | Minimum required tree planting | Minimum required shrub planting |
|---|---|---|
| 0 to 39 | None | None |
| 40 to 100 | 1 tree per 10 spaces | 3 shrubs per 10 spaces |
| 100 + | 1 tree per 15 spaces | 2 shrubs per 5 spaces |

**1.** Shade trees shall have a clear trunk at least six (6) feet above the finished grade.

**2.** All landscape planting areas that are not dedicated to trees or shrubs shall be landscaped with ground cover or other appropriate landscape treatment. No turf shall be allowed within interior parking lot landscape areas.

**3.** Interior landscaping planting islands shall have a minimum area of 160 square feet and a minimum dimension of four feet; provided, however, that:

**a.** Tree planting areas shall be at least seven feet in any dimension; and

**b.** Planting islands parallel to parking spaces shall be at least five feet wide (to allow car doors to swing open).

**c.** Interior landscaping shall be uniformly distributed throughout the parking lot.

**d.** Pedestrian pathways or sidewalk areas shall be incorporated into the parking area landscape treatment.

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**7.6.7. Parking Area Perimeter Walls.** Perimeter visual screening shall be required for off-road parking areas in the following circumstances:

**7.6.7.1.** Parking areas with ten or more spaces or 4,000 square feet, whichever is less, shall be screened from view along the front property line (adjacent road rights-of-way) by an opaque, four-foot masonry wall or fence.

**7.6.7.2.** Such parking areas located within twenty-five feet of a property line adjoining residential uses, shall be screened from view along the front, side and/or rear property line by an opaque, six foot masonry wall or fence. Required landscape buffers shall be located on the outside of the fence or wall.

**7.6.8. Means of Compliance.** Wherever landscaping or screening are required by this section, the following standards shall apply.

**7.6.8.1. Planting Standards.** Where landscaping is required by this section, these are the planting standards.

**1. Trees.** At least one tree with a minimum height at maturity of twenty (20) feet shall be provided for each 500 square feet of landscaped area, or fraction thereof. Trees used to screen nonresidential and multi-family structures shall have a minimum height at maturity of thirty (30) feet. New trees shall be spaced at a distance equal to the average diameter of the spread of the crown of the typical mature specimen.

**2. Shrubs.** At least three shrubs with a minimum mature height and spread of four feet shall be provided for each 500 square feet of landscaped area.

**3. Grasses.** Lawn or turf areas shall be limited to no more than twenty five percent (25%) of landscaped area or 800 square feet, whichever is less. Such areas shall not be planted in strips less than eight feet wide. All grasses utilized shall be appropriate to climate zone – cool season turf grasses are not permitted.

**7.6.8.2. Screening Standards.** When screening is required by this section, the following standards shall apply:

**1. Materials.** Screening may be accomplished by:

**a.** a solid wall;

**b.** an opaque wood fence of materials at least 3/4 inch thick with cross bracing secured with posts on maximum eight foot centers set in concrete or posts treated with preservatives set 24 inches deep;

**c.** any combination of shrubs and trees that effectively creates a dense vegetative screen. Shrubs used to satisfy any required screening standards shall be limited to plants with a mature height of between six and fifteen (15) feet. Trees used to satisfy screening standards shall be 50/50 deciduous and evergreen mix;

**d.** use of chain link fencing with slats is not acceptable for screening purposes; and

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**e.** fences or walls that are solid below and incorporate trellis or lattice or similar from five and one-half (5.5) feet upwards be considered solid screens for purposes of this section.

**2. Height.** The height of screening devices shall be measured from the highest finished adjacent grade of the element to be screened.

**7.6.8.3. Plant Type and Size.**

**1. Quality.** Plants installed to satisfy the requirements of this section shall meet or exceed the plant quality and species standards of the New Mexico Association of Nursery Industries. Plants shall be nursery-grown and adapted to the local area. No artificial plants or vegetation shall be used.

**2. Minimum Size.** The following minimum initial plant size requirements (at installation) of Table 7-2 shall apply in all cases:

**Table 7-2: Minimum Plant Size Requirements.**

| Plant type | Minimum size |
|---|---|
| Deciduous Trees | 1½ inch caliper (measured 6 inches above ground) and 6 feet tall |
| Evergreen Trees | 6 feet tall |
| Shrubs | Between 1 gallon and 5-gallon container size and up to and 24 inches tall |

**7.6.8.4. Irrigation.**

**1.** All landscaped areas shall include a permanent, underground irrigation system to ensure long-term landscape health and growth. Irrigation systems shall utilize storm water, grey water or other non-potable irrigation water. Irrigation system design may take into consideration the water-demand characteristics of plant or landscape materials used.

**2.** As an alternative to permanent underground irrigation, water harvesting or surface irrigation from an acequia may be used for irrigation so long as the alternative provides sufficient water to maintain the landscaping.

**3.** Supplemental potable water may be used only when storm water, grey water or other non-potable irrigation water is inadequate.

**7.6.8.5. Installation and Maintenance.**

**1.** Trees and large shrubs shall be supported after planting to prevent damage from wind.

**2.** Landscaped areas shall be maintained, including regular pruning, trimming, and watering.

**3.** Any plants that do not survive shall be replaced within thirty (30) days or during the next appropriate planting period.

**4.** Seeded areas shall be protected by accepted horticultural and permacultural

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practices to assure germination.

**5.** Seeding or planting may be delayed for the optimum germination or planting season.

**7.6.8.6. Alternative Landscaping.** The Administrator may approve the submittal of an alternative landscaping plan in conjunction with the site development plan, which modifies required landscaping in the following circumstances:

**1.** in open lands characterized by an absence of significant natural vegetation;

**2.** where there is no practical purpose for screening or buffering;

**3.** where the subject development or use is not visible from the area otherwise required to be buffered;

**4.** where existing landscaping or topographic features provides adequate buffering; or

**5.** where landscaping is prohibited by the International Wildland-Urban Interface Code.

## 7.7. FENCES AND WALLS.

**7.7.1. Purpose.** The standards of this section are intended to encourage construction of walls and fences that utilize traditional building styles and materials, as these vary throughout the county. The County finds that it is necessary for the public welfare to impose standards to improve and preserve the quality of fences and walls in residential neighborhoods in order to avoid blighting influences on neighborhoods and public safety problems.

**7.7.2. Applicability.** The following fences and walls are exempt from the requirements of this section:

**7.7.2.1.** Walls or fences for agricultural purposes; and

**7.7.2.2.** Residential walls and fences no higher than six feet.

**7.7.3. Livestock Fencing.** It shall be the duty of the purchaser, lessee or other person acquiring the subdivided land to fence out livestock, where appropriate, in conformity with §77-16-1 NMSA 1978.

**7.7.4. Standards.**

**7.7.4.1. Location and Height.** Fence and wall locations and heights shall be as follows unless otherwise specified in the SLDC:

**1.** The maximum height of walls or fences shall not exceed eight feet; provided, however, that the height of pedestrian door or gate portals built into a wall or fence may be up to 11 feet.

**2.** The combined height of any freestanding wall or fence constructed atop a retaining wall shall not exceed 10 feet. When a combination of freestanding wall or fence and retaining wall greater than 10 feet is needed, multiple retaining walls or combined wall structures shall be used. Each retaining wall shall be set back a

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minimum of six horizontal feet from face-of-wall to face-of-wall and shall be a maximum of 10 feet in height. Setback area grading shall not exceed a one percent cross slope.

**7.7.4.2. Materials.** A fence may be constructed of permanent material, such as wood (including coyote fences and similar), chain link, stone, rock, concrete block, masonry brick, brick, decorative wrought iron, adobe, straw bale or other materials that are similar in durability. The following materials shall not be used for fencing subject to this section:

**1.** Cast-off, secondhand, or other items not originally intended to be used for constructing or maintaining a fence, except that such materials may be used to provide artistic decoration or enhancement so long as the primary materials are consistent with this subsection;

**2.** Plywood, particle board, paper, and visqueen plastic, pallets, plastic tarp, or similar material; or

**3.** In subdivisions along the perimeter of a tract or parcel that abuts a collector or arterial road, barbed wire, razor wire, and other similar fencing materials capable of inflicting significant physical injury.

## 7.8. LIGHTING.

**7.8.1. Purpose.** The outdoor lighting standards of this section are intended to enhance the safety of areas designated for pedestrian and traffic use during evening hours, provide security, conserve energy, protect the night sky consistent with the New Mexico Night Sky Protection Act, and prevent spillover, nuisance or hazardous effects of light and glare on adjacent locations and uses of land**.** These standards shall not apply to public streetlights but shall apply to all other outdoor lighting including, but not limited to:

**7.8.1.1.** Buildings and structures;

**7.8.1.2.** Recreational facilities;

**7.8.1.3.** Parking lot lighting;

**7.8.1.4.** Road lighting; and

**7.8.1.5.** Other outdoor lighting.

**7.8.2. General Standards.** All outdoor lighting fixtures shall be designed, installed, located and maintained to conform to the standards of this section. Glare onto adjacent properties or roads shall not be permitted.

**7.8.2.1. Fixtures (electrical luminaries).** All outdoor light sources shall be concealed within cut-off fixtures, except as otherwise specified herein. Fixtures shall be mounted in such a manner that their cones of light are directed down or toward a surface, but never towards an adjacent residence or public road.

**7.8.2.2. Lamp (Light Source or Bulb) and Shielding Requirements.** Lamps, light sources or bulbs shall be shielded and shall comply with the light source and shielding requirements of Table 7-3. Spillover of lighting onto adjacent properties shall not exceed 0.50 foot-candle measured at any point on a property line. No outdoor lighting shall be

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directed towards any adjacent residential use or public road.

**Table 7-3: Shielding Requirements.**

| Lamp Type | Use status | Shielding | Special Requirements |
|---|---|---|---|
| LED | Required or preferred | Full | None |
| Metal halide | Limited: Recreational facilities, Sports events and special displays | Full with translucent filter | Subject to timing devices or restricted hours of operation. |
| Fluorescent and quartz | | Full | None |
| Any light 900 lumens or less | | None | None, unless a group of such lamps produce cumulative lighting levels in excess of the levels set forth in § 7.8.3.6 and Table 7-4. |
| Halogen | Limited: Recreational facilities, Sports events and special displays | Full with translucent filter | For outdoor display of merchandise or sporting events; may be subject to timing devices or restricted hours of operation. |
| Other sources | | As approved by Planning Commission | May be conditioned as part of development approval/agreement or Temporary Use Permit. |

**7.8.2.3. Fixture (electrical luminaries)..** All outdoor light sources shall be concealed within cut-off fixtures, except as otherwise specified herein.

**1.** Fixtures shall be mounted in such a manner that their cones of light are directed down or toward a surface..

**2.** Spillover of lighting to adjacent properties shall not exceed 0.50 foot-candle measured at any point on a property line.

**3.** No outdoor lighting shall be directed towards any adjacent residential use or public road.

**7.8.2.4. Fixture Height.** The lowest fixture height that can serve the lighting purpose shall be used in all cases; lighting specifically focused on paths and other items needing illumination shall be preferred to broadcast floodlighting over large areas. Maximum fixture height above adjacent grade for all fixtures shall be as follows:

**1.** 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 sixteen (16) feet in height.

**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.

**3.** Street light standards (upright supports) on a two lane road shall not exceed the height limitations of the zoning district.

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**7.8.2.5. Uses with Special Lighting Needs** (outdoor sporting events, arenas, jails). Such lighting shall only be permissible if a Conditional Use Permit is granted and that the proposed height is the minimum required to achieve the purpose of this section including even lighting. Spillover onto adjacent property is prohibited.

**7.8.2.6. Illumination Levels.** Light illumination levels shall not exceed the limits established in Table 7- 4. Seasonal decorations in place between Thanksgiving and January 15 are not counted toward these limits. The values in the following tables are upper limits and not design goals; design goals should be the lowest levels that meet the requirements. In order to provide uniform lighting in pedestrian and parking areas, outdoor lighting shall have an average-to-minimum uniformity ratio of 3:1.

**Table 7-4: Illumination Levels.**

| Zoning Districts | Maximum Allowable Total Lumen Output | Maximum Allowable Unshielded Lumens |
|---|---|---|
| Agricultural/ Rural/ Rural Fringe | 50,000 lumens/acre or 5,500 lumens/residential unit | 4,000 lumens/acre of surface to be lit |
| Residential Zoning Districts | 50,000 lumens/acre or 5,500 lumens/residential unit | 10,000 lumens/acre of surface to be lit |
| Mixed-use Residential Zoning Districts | 100,000 lumens/acre or 5,500 lumens/residential unit | 10,000 lumens/acre of surface to be lit |
| Mixed-use Non-residential Zoning Districts | 100,000 lumens/acre or 5,500 lumens/residential unit | 10,000 lumens/acre of surface to be lit |
| Industrial Zoning Districts | 200,000 lumens/acre or 5,500 lumens/residential unit | 10,000 lumens/acre of surface to be lit |

**7.8.3. Non-Road Lighting.**

**7.8.3.1. Pedestrian Way, Loading and Service Illumination.** Fully shielded decorative lamps housing an incandescent lamp of 160W or less for hanging under portals are permitted for pedestrian use, loading or service illumination. All other lamps (bulbs) and light sources designated for pedestrian use, loading or service illumination shall be recessed into any canopy structure, unless a suitable alternative is submitted to and approved by the Administrator.

**7.8.3.2. Building Illumination.** So that there is no spillover beyond the building façade, building facades within nonresidential districts may be illuminated with:

1. Ground flood lamps installed close to the structure; or

2. Wall mounted flood lamps shielded so that the light source is not visible.

**7.8.3.3. Outdoor Storage, Display and Recreational Facilities.** Control of the

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distribution of illumination for outdoor recreation areas, outdoor storage areas or outdoor display of merchandise shall be subject to installation of automatic timing devices to turn off lighting between specified hours.

**7.8.3.4. Recreational Facilities.** Any light source permitted by this section, that complies with height restrictions as specified in the applicable zoning district, may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, auto racetracks, horse racetracks, or show arenas, consistent with the illumination standards specified in Table 7-4, provided that all fixtures used for event lighting shall be fully shielded, or shall be designed or provided with sharp cut-off capability.

**7.8.3.5. Laser and search lights.** Whether stationary or sweeping, laser-source lights and search lights are prohibited for all but emergency purposes.

**7.8.3.6. Moving lights.** Flashing, flickering, strobing, moving or otherwise animated lighting shall not be used other than for seasonal holiday lighting.

**7.8.3.7. Mercury vapor and low pressure sodium lighting.** The installation and use of mercury vapor or low pressure sodium lighting is prohibited.

**7.8.4. Road Lighting.**

**7.8.4.1. When Required.** Street lights are required; an intersection of any road with a highway or arterial; and where necessary to protect the safety of motorists and pedestrians due to the particular characteristics or location of a site.

**7.8.4.2. Street Light Standards.** All street lights shall comply with the following standards:

**1.** Street lighting shall comply with standards established in the Illuminating Engineering Society (IES) *Lighting Handbook*, latest revision, and the standards set forth in this section;

**2.** Spacing of lights shall be governed by the New Mexico Standard Specifications for Highway and Bridge Construction, latest edition;

**3.** LED lighting shall be used;

**4.** Street lights shall be located and designed to enhance the safety of motorists and pedestrians, and shall create a transition from unlit areas to illuminated areas, continuity and uniformity of lighting, and avoid blind spots or dark shadows; and

**5.** Street lights shall be designed with their power lines installed underground.

**7.8.4.3. Operation and Maintenance.** Payments for the operation and maintenance of street lights within subdivisions, multi family developments or non-residential developments shall be the responsibility of the developer or the developer's designee. The disclosure statement, home owners' association or voluntary development agreement shall set forth an acceptable method for paying for operation and maintenance of the street lights.

**7.8.5. Specific Outdoor Lighting Standards.**

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**7.8.5.1. Residential lighting**. No permit is required for outdoor lights that are installed at one and two family dwellings and that are rated at 1,200 initial lumens or less per lamp, as long as the maximum lumen output per dwelling set by Table 24.A (5,500 initial lumens) is not exceeded. Floodlights rated less than 1,200 initial lumens are included in this exception;

**7.8.5.2. Emergency lighting.** No permit is required for temporary emergency lighting used by the fire, police, and public works departments or other emergency service agencies.

**7.8.5.3. Security lighting.** All night lighting for security surveillance will be minimized. The use of motion-activated lights and alarms will be encouraged as an alternative. All applications for discretionary permits that propose security lighting shall include a security plan which delineates the area/s to be illuminated for security purposes and outlines the need for and purposes of the security lighting. Additionally:

**1.** Security lighting is subject to all standards, including shielding, light orientation, etc. established in this section on lighting.

**2.** Security lighting designed to illuminate a perimeter (such as along a fence) shall include motion sensors designed to stay off unless triggered by an intruder located within 5 feet of the perimeter. Pole-mounted security lighting shall be installed no more than 10 feet from the perimeter of the designated area being illuminated, and poles cannot be located outside the parcel boundaries.

**7.8.5.4. Gas station canopies and convenience stores.** Reserved.

**7.8.5.5. Parking lot lighting.** Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and safety, and to prevent glare or direct illumination onto adjacent properties or public ways.

**1.** All lighting serving parking lots shall be fully shielded;

2. Parking area illumination shall be reduced by at least 75% within ½ hour of the close of the business(es) the parking area serves. This reduced lighting level can be achieved by automatic controls that reduce lighting by 75%. This standard does not require that lighting levels be reduced below 0.2 foot-candles as measured horizontally at finished grade level.

**7.8.5.6. Lighting levels.** Illumination levels in parking areas shall meet the requirements set forth for each Lighting Zone in Table 7-4.1.

**Table 7-4.1 Maximum Average Illumination and Uniformity Ratios Required for Parking Lots in each Zoning District**

| Zoning District | Average Illumination* shall not exceed: | Uniformity Ratio^ shall not exceed | Maximum Illumination of any point shall not |
|---|---|---|---|

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| | | | |
|---|---|---|---|
| | | | **exceed** |
| Agricultural/ Rural/ Rural Fringe | Parking lot illumination discouraged | Parking lot illumination discouraged | Parking lot illumination discouraged |
| Residential Zoning Districts | 1.0 foot-candles | 20:1 | 5.0 foot-candles |
| Mixed-use Residential Zoning Districts | 1.0 foot-candles | 20:1 | 5.0 foot-candles |
| Mixed-use non-residential zoning Districts | 1.0 foot-candles | 20:1 | 5.0 foot-candles |

*****Average illumination shall be measured horizontally at grade level, computed over the area of the parking lot.

^The uniformity ratio is a measure of the consistency of light levels across a given area. It is expressed as maximum: minimum illumination levels.

## 7.9. SIGNS.

**7.9.1. Purpose.** All signage shall comply with the requirements of this Section 7.9 in order to:

**7.9.1.1.** improve pedestrian and motorist safety by minimizing distractions and obstacles to clear views of the road and of directional or warning signs;

**7.9.1.2.** provide businesses with effective and efficient opportunities for identification by reducing competing demands for visual attention;

**7.9.1.3.** protect and enhance economic viability by assuring that Santa Fe County will be a visually pleasant place in which to live or to visit;

**7.9.1.4.** protect views of the natural landscape and sky; and

**7.9.1.5.** allow for expression by signage subject to reasonable regulation.

**7.9.2. Applicability.** The requirements of this section shall apply to all signs.

**7.9.3 Placement.** Signs may not be placed on or over public roads or rights-of-way without approval from the Administrator. Signs may not be placed in road or access easements, except for traffic signs and safety warning signs. On private property, signs may be placed in private utility easements.

**7.9.4. Illumination.** Illumination may be indirect with the source of light concealed from view, direct, emanating through translucent materials of the sign itself, or by electrically activated gas tubing such as neon. LED signs and electronic message boards are not prohibited, but shall comply with all requirements of this §7.9. Indirect and reflected illumination shall not exceed ten (10) vertical foot-candles in residential and mixed-use districts and twenty-five (25) foot-candles in non-residential districts. Direct or interior illumination shall not exceed one hundred fifty (150) foot-candles in residential and mixed-use districts and two hundred fifty (250) foot-candles in non-residential districts.

**7.9.5. Permanence.** All signs shall be permanently affixed or attached to the ground or to a

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structure, except for temporary signs allowed under this section.

**7.9.6. Electrical.** All electrical service to a freestanding sign shall be underground.

**7.9.7. Additional requirements.** Signs and sign structures may be subject to additional requirements of the county or the state, including building permit requirements and structural requirements of the New Mexico Building Code.

**7.9.8. Signs Allowed Without a Permit.** The following signs may be erected or placed without a permit so long as they comply with the requirements of § 7.9.4 and any other sections of the SLDC that may apply, including specifically the regulations in any particular zoning district. Unless otherwise stated below, such signs may not exceed six (6) feet in height except for rural property identification signs located on entryway arches over private driveways.

**7.9.8.1. Address/identification signs.** One sign per road frontage, not exceeding two (2) square feet in area, may denote the address and/or name of the occupants.

**7.9.8.2. Rural property identification signs.** One sign per primary driveway entrance may denote the name of the property and/or the address/name of the occupants. Such signs may not exceed six (6) square feet in area for properties less than ten acres and thirty-two (32) square feet in area for properties ten acres or greater.

**7.9.8.3. Home occupation signs.** One sign per road frontage, not to exceed four (4) square feet in area, may advertise authorized low and medium impact home occupations.

**7.9.8.4. Directional/informational signs and historic markers.** Directional signs, informational signs and historic markers or similar plaques do not require a permit, but may not exceed four (4) square feet in area.

**7.9.8.5. Agricultural product signs.** One sign per road frontage, not to exceed sixteen (16) square feet in area, may advertise the sale of agricultural products.

**7.9.8.6 Crop signs.** Signs identifying seed brands and varieties in use, test plots, and similar signs that are customary in agricultural production areas.

**7.9.8.7. "Daily special" signs.** Signs for "daily specials" such as menu boards, sandwich boards or A-frame type signs shall be allowed for the purpose of advertising nonrecurring daily specials. Such signs are limited to one sign per business and a maximum of six (6) square feet in area per side and two sides. Signs shall be placed within fifteen (15) feet of the business entrance, shall not impede pedestrian sidewalk circulation, and shall be taken in daily at the close of business.

**7.9.8.8. Community event signs**. Any number of signs is allowed, provided each sign does not exceed nine (9) square feet in area in residential and rural districts, and thirty-two (32) square feet in area in nonresidential and agricultural/ranch districts. Signs may not be placed more than forty-five (45) days prior to the event and shall be removed within five (5) days after the event.

**7.9.8.9. Private sale/yard sale signs.** One sign per road frontage is allowed on the property where the sale occurs. Each sale sign may not exceed four (4) square feet in area. Signs shall be displayed only during the sale specified. Related off-site directional signage shall be treated as directional signage as in § 7.9.9.4.

**7.9.8.10. Real estate signs.** One sign per road frontage is allowed on the property being

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advertised. Each real estate sign advertising a residential dwelling is limited to eight (8) square feet in area and six (6) feet in height. Each real estate sign advertising non-residential property or vacant land is limited to sixteen (16) square feet in area and four (4) feet in height. Real estate signs may not be illuminated. Related off-site directional signage shall be treated as directional signage as in § 7.9.9.4.

**7.9.8.11. Election signs.** Signs relating to a candidate, issue, proposition, or other matter to be voted upon by the electors of the county, provided that any individual sign does not exceed nine (9) square feet in area in residential, and thirty-two (32) square feet in area in nonresidential, rural and agricultural/ranching districts. Signs shall be removed within five (5) days after the applicable election.

**7.9.8.12 Small construction signs.** One small construction sign per property on which construction is taking place, and limited to eight (8) square feet in area and six (6) feet in height. Such signs shall be removed within five (5) days of final inspection or completion of the project, whichever occurs first. Note that larger construction signs may be permitted under § 7.9.11.

**7.9.8.13. Flags, commercial.** Flags displaying the name, insignia, emblem or logo of a for-profit entity do not require a permit; however, there shall be no more than one commercial flag per property where no single side exceeds forty-eight (48) square feet.

**7.9.8.14. Flags, noncommercial.** Flags displaying the name, insignia, emblem or logo of any nation, state, county, municipality or nonprofit organization.

**7.9.8.15. Vehicle signs.** Signage painted on, or otherwise affixed to, a vehicle is not regulated so long as the vehicle is not parked on a property for the primary effect of directing or attracting the attention of the public to a building, product, service, organization, event or location offered or existing elsewhere than upon the property where the vehicle is parked. Signs on construction trailers parked at construction sites do not require a permit but all such trailers shall be removed within one week of final inspection or completion of the project, whichever occurs first.

**7.9.8.16. Regulatory signs**. Signs having the primary purpose of conveying information concerning rules, ordinances, or laws.

**7.9.8.17. Warning signs.** Signs limited to a message of warning, danger or caution such as underground utility location signs, 'no trespassing', 'no hunting', and similar warning messages.

**7.9.8.18. Ideological signs.** Signs conveying philosophical, religious, political, charitable or other similar noncommercial messages, provided such signs are unlighted and do not exceed nine (9) square feet in area.

**7.9.8.19. Public signs.** These are signs erected by a governmental entity in conjunction with the conduct of any governmental program, operation or activity, including, but not limited to federal, state, county and city governments, public school and recreation districts, and public charter schools.

**7.9.8.20. Public monuments.** These are permanent pieces of public outdoor art, sculpture, landscape enhancement such as a garden or grove or other civic improvement whose primary purpose is to honor a person, group, event or other significant contribution to a place or building. Further examples are a plaque, tree, bust, statuary, fountain, a building or similar architectural feature. Because the First Amendment to the

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United States Constitution as well as Article 2, Section 11 of the New Mexico Constitution prohibit the government from endorsing or establishing a religion, the County cannot permit the installation of a public monument on public property that gives the appearance of supporting a given religion.

**7.9.8.21. Commemorative plaques.** These are signs erected by any person or entity and consist of a memorial or commemorative plaque or tablet that contains the primary name of a building, the date of erection and use of the building when the sign is built into the building, or mounted flat against the wall of the building, or is designed to designate any particular location of historical significance after being so determined by the County.

**7.9.8.22. Window signs.** Window signs may be used only on commercial properties and shall be limited to thirty percent (30%) of the total window area of each separate place of business and shall be further limited to one such sign per business.

**7.9.9. Prohibited Signs.** The following signs are not allowed in any zoning district:

**7.9.9.1.** Rooftop signs and signs that extend above the roof of any building.

**7.9.9.2.** Signs which contain any flashing, rotating, animated or otherwise moving features. The appearance of electronic or changeable message signs cannot change more frequently than once every minute. Exempted from this provision are electronic signs used specifically for the purpose of enhancing traffic safety during a traffic event, roadway construction project, or permitted special event.

**7.9.9.3.** Strings of light bulbs used for commercial purposes other than traditional holiday decorations.

**7.9.9.4.** Searchlights, beacons or other similar devices, whether stationary or revolving, used for the purpose of advertising or attracting attention to a property.

**7.9.9.5.** Signs with any obscene, indecent or immoral matter.

**7.9.9.6.** Off-site advertising.

**7.9.9.7.** Oversized signs or billboards.

**7.9.10. Temporary Construction and Project Marketing Signs.** A development permit is required for the following temporary construction and project marketing signs:

**7.9.10.1. Construction.** One temporary construction sign shall be allowed per road frontage per property not exceeding sixteen (16) square feet in area in residential and rural districts or thirty-two (32) square feet in area in nonresidential districts. Such signs shall be removed within one week of final inspection or completion of the project, whichever occurs first. Note that one construction sign of up to eight (8) square feet in area per face is allowed without a development permit (see § 7.9.9.12), but only one temporary construction sign is allowed per property whether it requires a permit or not.

**7.9.10.2. Project marketing.** Temporary signs identifying the project and offering for sale or lease, as part of the original marketing of the project, the lots, tracts, structures or units within the project, shall be allowed at each entrance from any adjacent road; however, no more than two (2) such signs are allowed per project or phase of a project. The maximum sign face area shall be fifty (50) square feet in residential and rural districts and sixty-four (64) square feet in nonresidential districts. Project marketing signs

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shall be allowed to remain for no more than two (2) years following issuance of the temporary permit. In addition, a temporary project sales office shall be entitled to one indirectly lit sign not to exceed ten (10) square feet in size.

**7.9.11. Temporary Commercial Signs.** Except for a person possessing a permit as an itinerant vendor, a permit is required for a temporary sign promoting a temporary commercial event such as a sale or grand opening on the property of a nonresidential use. An itinerant vendor may place a temporary commercial sign without a permit for the duration of its itinerant vendor permit. A temporary permit shall be issued for a period not to exceed thirty (30) days.

**7.9.11.1.** Allowed sign types:

**1.** a banner or banners that do not cumulatively exceed fifty (50) square feet in sign area and which are mounted flush to a building wall;

**2.** pennants; and

**3.** balloons and other types of lighter than air objects that have no linear dimension greater than two (2) feet.

**7.9.11.2.** The temporary permit may specify such conditions and limitations as are deemed necessary to protect adjoining properties and the public. The permit may not be approved for a time period exceeding thirty (30) consecutive days in any calendar year for each property, or each business in a multi-tenant center.

**7.9.11.3.** The permittee shall remove all temporary signs on or before the expiration of the permit.

**7.9.12. Signage Requirements for Residential Districts.** The following regulations shall apply to all signs in residential districts and residential uses within mixed-use zones.

**7.9.12.1. Signage type.** In addition to those signs that are allowed without a permit (see § 7.9.8), the following identification signs are allowed upon the issuance of a development permit:

**1. Multi-family residential.** One identification sign for a multi-family residential complex per driveway access from a public road, not to exceed thirty-two (32) square feet in area, and one wall sign per multi-family structure per road frontage, not to exceed twenty (20) square feet in area.

**2. Residential subdivisions.** One identification sign per entrance to the subdivision, provided that such sign does not exceed thirty-two (32) square feet in area. If entrance identification signs are proposed for both sides of the road, this "set" of signs shall be treated as one identification sign.

**3. Non-residential uses.** One identification sign per road frontage for a nonresidential use in a residential district (including nonconforming uses and uses approved by conditional use permit), subject to a maximum sign area of twenty (20) square feet per sign (32 square feet in rural zones).

**4. Public buildings.** One identification sign per road frontage for public facilities such as churches, libraries, schools, fire stations and public recreation facilities, subject to a maximum sign area of thirty-two (32) square feet per sign.

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**7.9.12.2. Height.** All freestanding signs shall be limited to six (6) feet in height.

**7.9.12.3. Lighting.** All signs in residential districts shall be either unlit or indirectly illuminated. All lighting shall be aimed and/or shielded to insure that no direct light shines upon adjacent roads or residential properties.

**7.9.13. Signage Requirements for Nonresidential Districts.** The following regulations shall apply to all signs in nonresidential districts and nonresidential areas within a mixed-use district.

**7.9.13.1. Total allowable signs and area.** The number of allowed signs and maximum sign area shall be as follows:

**1. Single-occupant.** Single-occupant properties are permitted up to two (2) signs. The cumulative sign area for the property shall not exceed the lesser of one square foot of signage per linear foot of building frontage or seventy (70) square feet. However, if a building has two front facades facing intersecting arterials, an additional sign is allowed, provided it does not exceed an additional fifty percent (50%) of the original allowable sign area for the property.

**2. Multi-tenant.** Each tenant in a multi-tenant center may have one wall, projecting, canopy or awning sign that shall not exceed the lesser of one square foot of signage per linear foot of that tenant's building frontage or seventy (70) square feet. In addition, the entire center may have one free-standing sign not exceed the lesser of one square foot of sign per linear foot of total building frontage or one hundred fifty (150) square feet. However, if the development has two front facades facing intersecting arterials, an additional sign is allowed, provided it does not exceed an additional fifty percent (50%) of the original allowable sign area for the property.

**7.9.13.2. Wall signs.** Wall signs shall not project more than one foot from the wall on which they are mounted, and bracing for wall signs shall be installed below the parapet walls or otherwise screened from public view.

**7.9.13.3. Building-mounted signs.** A building-mounted sign may extend above the wall on which it is mounted to a maximum of ten (10) feet above the highest point of the wall on which it is mounted, but in no event shall it extend beyond the structure height limitation for the district in which it is located.

**7.9.13.4. Awning, canopy and projecting signs.** Awning, canopy and projecting signs shall be at least seven feet above grade; provided, however, that when such signs are erected over a driveway, the minimum height above the grade shall be fifteen (15) feet.

**7.9.13.5. Freestanding signs.** Freestanding signs shall meet the following requirements:

**1. Height.** The maximum allowable height for freestanding signs shall be as established in Table 7-5.

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**Table 7-5: Allowable Height for Freestanding Signs.**

| Distance from R-O-W (feet) | | Max. height (feet) |
|---|---|---|
| at least | but less than | |
| 25 | 50 | 10.0 |
| 50 | 75 | 15.0 |
| 75 | 100 | 20.0 |
| More than 100 | | 25.0 |

**2. Side Setback.** The minimum side lot line setback shall be ten (10) feet; provided, however, that the setback for monument signs may be reduced to five (5) feet.

**3. Design.** Freestanding monument signs shall have a base area equal in length to the sign's length along its longest side, and not less than two feet in width and sixteen (16) inches in height. Such signs shall be installed in a base area maintained by the permittee using a banco, planter or a low wall compatible with the building or premises and/or shrubs, flowers or groundcover.

**7.9.13.6. Clocks and thermometers.** The following shall apply to clocks and thermometers when constructed within or as a part of a nonresidential sign or when displayed as a separate nonresidential sign:

**1.** Clocks and thermometers shall not exceed sixteen (16) square feet in area;

**2.** If no advertising is present, the area of the clock or thermometer shall not be computed as part of the sign area;

**3.** The hands of the clock and the motive mechanism shall not be considered as moving parts;

**4.** Illuminated numerals shall not be classified as blinking or flashing lights; and

**5.** All clock signs shall keep accurate time and all thermometer signs shall accurately record the temperature. If these conditions are not complied with, the instruments shall be promptly repaired or removed.

**7.9.14. Sign Maintenance.** All signs shall be maintained in good condition at all times. All signs shall be kept neatly finished and repaired, including all parts and supports. The Administrator may inspect any sign governed by the SLDC at any time to ensure compliance with this section.

**7.9.15. Measurement.** The following standards apply to the measurement of all signs.

**7.9.15.1. Sign area for individual signs.** For most signs, the area of the sign face shall be computed as shown in Figure 7.1 by means of drawing the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background. If the sign is a cabinet sign (a sign that contains all the text, artwork, logos and/or other information displayed within an enclosed cabinet), then the sign area shall be determined by the outer edge of the sign frame or cabinet that encompasses all text, decorative artwork, logos, or other information displayed.

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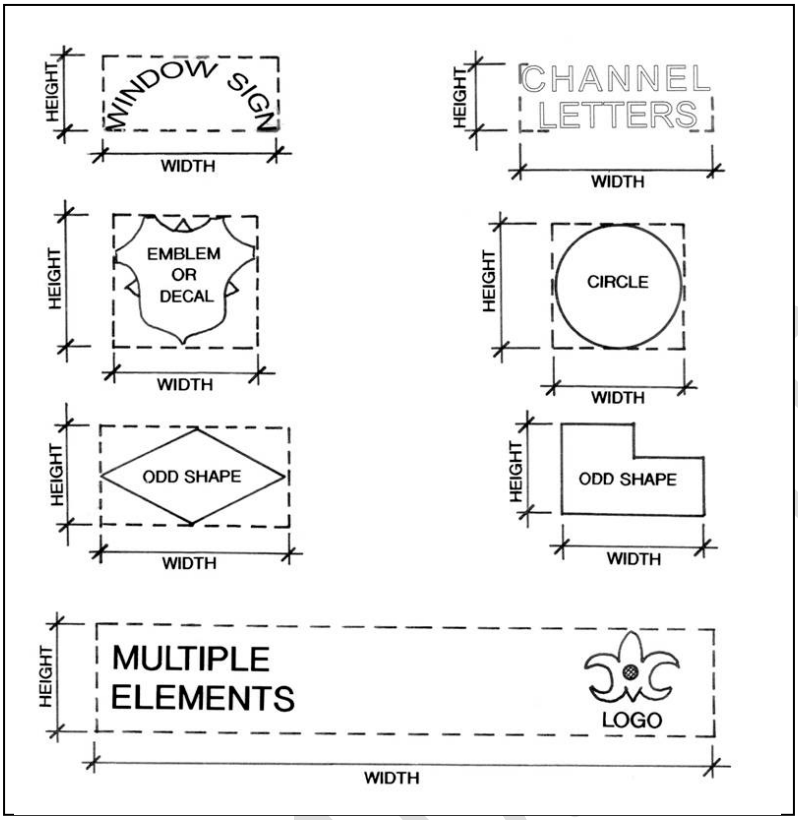
**Figure 7.1: Measurement of Sign Area.**




**7.9.15.2. Sign area for multi-faced signs.** Sign area of multi-faced signs is calculated based on the principle that all sign elements that can be seen at one time or from one vantage point will be considered in measuring that side of the sign. Figure 7.2 illustrates the following two standards:

**1.** Where the sign faces of a double-faced sign are parallel or the interior angle formed by the faces is 60 degrees or less, only one display face shall be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign shall be the area of the larger face.

**2.** Where the sign faces of a double-faced sign are parallel or the interior angle formed by the faces is 60 degrees or more, the areas of all faces of a multi-faced sign shall be added together to compute the area of the sign.

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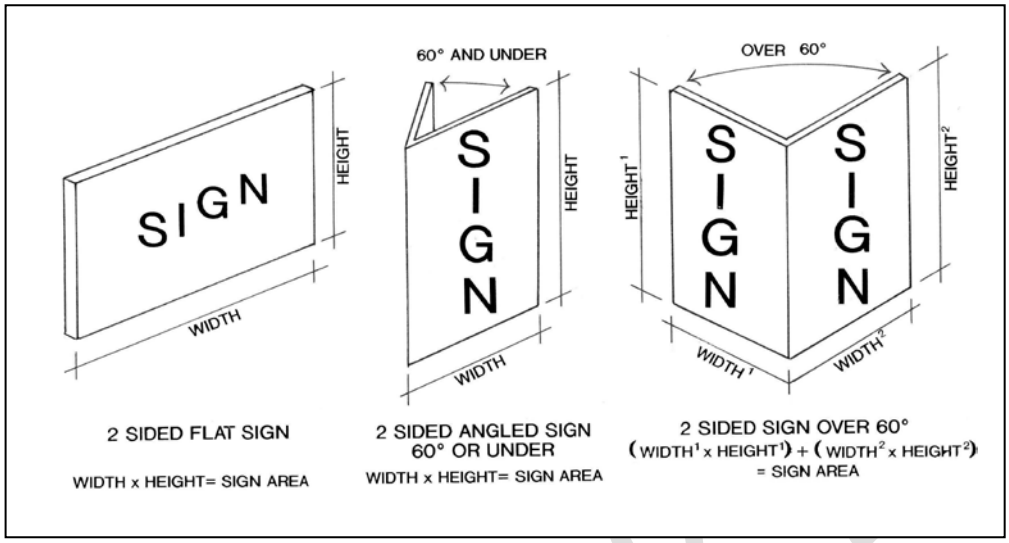
**Figure 7.2: Measurement of Area: Multi-faced Signs.**

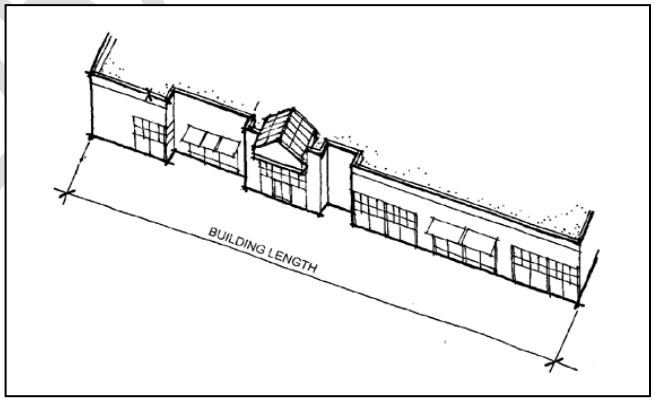



**3.** The height of a freestanding sign shall be measured as the vertical distance from the average finished grade of the ground below the sign excluding any filling, berming, mounding or excavating solely for the purposes of increasing the height of the sign, to the top edge of the highest portion of the sign including any architectural appurtenances.

**4.** The required setback for freestanding signs shall be the distance between the nearest edge of the sign and the road right-of-way or lot line.

**7.9.15.3. Building frontage.** For purposes of § 7.9.14.1, the building frontage shall mean the horizontal length of a building on the side with its principal public entrance, measured as the shortest distance between two lines projecting from the two front corners of the building (regardless of concave or convex characteristics of the building), with the lines parallel to each other and as close as practicable to the perpendicular front of the building. Figure 7.3 illustrates this concept:

**Figure 7.3: Measurement of Building Frontage.**




**7.9.16. Nonconforming Signs.** A nonconforming sign shall not be structurally or physically changed in any way to preserve it status as a nonconforming sign, although its content may be changed.

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**7.9.16.1.** All nonconforming signs on a property shall be brought into conformance with this section when:

**1.** a change to any sign, except in the content of a sign, occurs;

**2.** a change of use, as defined in the SLDC, occurs on the property; or

**3.** a new sign is added to the property.

**7.9.16.2.** A nonconforming sign shall not be re-established after damage if the estimated cost of repair exceeds fifty percent (50%) of the appraised replacement cost of the sign.

**7.9.17. Removal of Obsolete Signs.** A sign and related sign structure shall be removed from a property in the event that the sign is blank or displays obsolete material for a period six (6) consecutive months. Whenever a sign is removed from a building or structure, the building or structure shall be cleaned, painted or otherwise altered, and all supports, brackets, mounts and utilities shall be removed so that there is no visible trace of the removed sign or supports, brackets, mounts and utilities.

## 7.10. PARKING AND LOADING.

**7.10.1. Purpose.** All off road parking and loading facilities shall be provided in compliance with the requirements of this section in order to:

**7.10.1.1.** improve the design of parking facilities to maximize convenient access to homes and businesses with minimal vehicle or pedestrian conflict;

**7.10.1.2.** implement construction standards for surfacing materials, design criteria for stall dimensions, approach widths and locations to ensure efficiency, usability and a reasonable life expectancy for parking facilities;

**7.10.1.3.** provide a minimum acceptable number of off-road parking spaces in association with any use or building which is to be erected, substantially enlarged or changed from one principal use to another;

**7.10.1.4.** facilitate maximum land utilization between business types through encouragement of shared facilities; and

**7.10.1.5.** provide fire lanes and access for emergency personnel, and sight distances at all roadway intersections.

**7.10.2 Applicability.** This subsection applies to all new development, to expansion or enlargement of an existing structure, or to a change of use that creates a need for additional parking.

**7.10.3 Computing Parking Requirements.** The following rules shall apply when computing parking requirements:

**7.10.3.1. Fractions.** When a calculation results in a fractional number, the fraction shall be rounded to the next highest whole number.

**7.10.3.2. Distances.** Distances shall be measured between nearest off-road parking

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facility and nearest primary entrance of the building or use to be served.

**7.10.3.3. Multiple Uses.** When two or more uses or separate establishments are located within the same development, off-road parking shall be provided for each use or separate establishment. If one or more uses within a multi-use development are of a size that would otherwise exempt them from compliance with off-road parking requirements, only one such exemption shall be permitted to be taken for the entire development.

**7.10.3.4. Floor Area.** Unless otherwise expressly stated, all square footage-based off-road parking and loading standards shall be computed on the basis of the net usable square footage of all space used.

**7.10.3.5. Seating.**

**1.** When seating consists of benches, pews or other similar seating facilities, each 20 linear inches of seating space shall be counted as one seat.

**2.** Where parking requirements relate to movable seating in auditoriums and other assembly rooms, 15 square feet of floor area shall be construed to be equal to one seat, except where otherwise specified.

**7.10.3.6. Employees, Students and Other Occupants.** For the purpose of computing parking requirements based on the number of employees, students, residents or occupants, calculations shall be based on the largest number of persons working on any single shift, the maximum enrollment or the maximum fire-rated or licensed capacity, whichever is applicable. In hospitals, bassinets shall not be counted as beds.

**7.10.4. Minimum Parking Requirements.** Unless otherwise expressly stated in this Code, parking spaces shall be provided in accordance with Table 7-6.

**Table 7-6: Parking.**

| Use classification | Specific use | Minimum # of spaces required |
|---|---|---|
| **Residential Buildings** | | |
| Household Living | All household living not listed below | Sec. 7.10.5 |
| | Single-family dwellings and manufactured homes | 2.0 per dwelling unit |
| Group Living | All group living | 1.0 per 4 beds + 1.0 per 100 square feet of assembly area |
| **Public, Institutional and Community Service** | | |
| Place of Worship | All places of worship | 1.0 per 4 seats |
| Day Care | | 2.0 spaces plus 1 per employee, in addition to adequate stacking and pick-up areas |
| Community Service | All community service not listed below | Sec. 7.10.5 |
| | Community facilities and Institutions | 1.0 per employee plus 1 per 300 sq. ft. |
| Educational Facilities | All educational facilities not listed below | Sec. 7.10.5 |
| | Elementary and middle schools | 1.0 per 1.5 teachers and employees |

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| Use classification | Specific use | Minimum # of spaces required |
|---|---|---|
| | Middle or high schools | 1.0 per 1.5 teachers and employees + 1 per 3 students |
| Government Facilities | All government facilities | Sec. 7.10.5 |
| Parks and Open Spaces | All parks and open space | Sec. 7.10.5 |
| Passenger Terminal | All passenger terminals | Sec. 7.10.5 |
| Social Service Institutions | All social service institutions | Sec. 7.10.5 |
| Utilities | All Utilities | Sec. 7.10.5 |
| **Retail, Service and Commercial Use Categories** | | |
| Entertainment Events, Major | All major entertainment events, not listed below | Sec. 7.10.5 |
| | Auditoriums/theaters | 1.0 per 4 seats |
| Medical Services | All medical services not listed below | Sec. 7.10.5 |
| | Hospitals | 1.5 per bed |
| | Medical and dental offices/clinics | 1.0 per 200 sq. ft. |
| Office | All offices not listed below | 1.0 per 200 sq. ft. |
| | Banks and other financial institutions | 1.0 per 200 sq. ft. |
| | Offices | 1.0 per 200 sq. ft. |
| | Research/development | 1.0 per 200 sq. ft. |
| Transient Accommodations | All transient accommodations not listed below | 1.0 per bedroom or rental unit |
| | Hotels, motels, inns, and bed and breakfasts | 1.0 per bedroom or rental unit |
| | Resorts | 1.0 per bedroom or rental unit |
| Indoor Recreation | All indoor recreation | Sec. 7.10.5 |
| | Convention or conference center | 1.0 per 4 seats |
| | Entertainment and recreation, indoor | 1.0 per 200 sq. ft. |
| Outdoor Recreation | All outdoor recreation not listed below | Sec. 7.10.5 |
| | Racetracks and stadiums | 1.0 per 4 seats |
| Restaurants and Bars | All restaurants and bars | 1.0 per 3 seats, 2 spaces minimum |
| Retail Sales and Service | All indoor retail sales and services | 1.0 per 200 sq. ft. |
| Vehicle Sales and Service | All vehicle sales and service | 1.0 per 400 sq. ft. |
| Storage | All storage | Sec. 7.10.5 |
| **Industrial Use Categories** | | |
| Industrial Sales and Service | Industrial sales and service not listed below | 1 per 500 sq. ft. |

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| Use classification | Specific use | Minimum # of spaces required |
|---|---|---|
| | Manufactured home sales and service | 1.0 per 500 sq. ft., plus 1.0 per employee |
| | Manufacturing | 1 per 500 sq. ft. |
| Warehouse and Freight Movement | Warehouse and freight movement not listed below | 1.0 per employee |
| | Truck stops | 1.0 per 400 sq. ft. |
| Waste-related Services | All Waste-related services | 1.0 per employee |
| Wholesale Trade | All wholesale trade not listed below | 1.0 per 500 sq. ft. plus 1.0 per employee |
| Heavy Industrial | All heavy industrial | 1.0 per 500 sq. ft. |
| Resource Extraction | All resource extraction | Sec. 7.10.5 |
| **Open Use Categories** | | |
| Agriculture | All agriculture not listed below | Sec. 7.10.5 |
| | Agriculturally-related supplies and equipment | 1.0 per employee |
| | Greenhouses and plant nurseries | 1.0 per 200 sq. ft. of retail space |
| | Veterinary clinics (large animal) | 1.0 per 500 sq. ft. |
| | Veterinary clinics (small animal) | 1.0 per 300 sq. ft. |

**7.10.5 Alternative Parking Requirements.** Uses that are neither listed in Table 7-6 nor are reasonably similar to those listed in Table 7-6, shall be determined by applying recommended guidelines and principles set forth in the publication "Parking Generation, 4th Edition" or as amended from time to time, published by the Institute of Traffic Engineers.

**7.10.6 Bicycle Parking Facilities.** Bicycle parking facilities for nonresidential uses shall be required in accordance with AASHTO's latest edition of "Guide for the Development of Bicycle Facilities"

**7.10.7 Shared Parking.** Shared parking is permissible where an executed parking agreement is submitted.

**7.10.8 Space Identification.** Parking spaces shall be permanently and clearly marked. Parking facilities shall be clearly marked with appropriate signs, and shall otherwise provide for orderly and safe parking, loading and unloading of vehicles. All markings, including pavement striping, directional arrows and signs shall be properly maintained in a highly visible condition at all times.

**7.10.9. Surfacing and Maintenance.** Parking lots of forty or more spaces shall be paved, and parking lots containing fewer than forty spaces shall have a properly compacted base course surface. Where paved parking is required, permeable pavement may be used**.** Parking areas shall be maintained in a dust-free, well-drained, serviceable condition at all times.

**7.10.10. Dimensions.** Parking spaces shall comply with Table 7-7. The minimum dimension on all parking spaces shall be at least 8.5' by 18'.

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**Table 7-7: Parking Space Minimum Dimensions.**

| Use | Type of space | Dimensions |
|---|---|---|
| Residential | All | 8.5' x 18' |
| Nonresidential | Angle spaces | 8.5' x 18' |
| All | Parallel spaces | 8.5' x 20' |

**7.10.11. Vertical Clearance.** Vertical clearance for parking spaces shall be a minimum of seven feet.

**7.10.12. Internal Circulation System.**

**7.10.12.1.** The layout of the circulation system shall be designed to provide access between parking spaces and roads, and to accommodate vehicular traffic and pedestrians safely and efficiently with a minimum impact on adjacent properties.

**7.10.12.2.** The layout of the circulation system shall be adapted to the site, taking into consideration physical factors such as natural elements, grade and drainage, as well as aesthetic factors, such as the visual impact of the road pattern and the highlighting of special site features.

**7.10.13. Aisle Widths.** Aisles within parking lots shall have a minimum of 13' for one-way aisles and 20' for two-way aisles.

**Table 7-8: [Reserved]**

**7.10.14. Location.** All parking spaces shall be located on the same lot as the principal use, or adjacent to the lot containing the principal use. Where located on an adjacent lot, safe access from the adjacent parking to the principal use shall be provided. Nothing in this subsection shall prohibit establishment of shared parking agreements pursuant to subsection 7.10.7.

**7.10.15. Accessibility Requirements.** A portion of the total number of parking spaces shall be specifically designated, located and reserved for use by persons with physical disabilities. The minimum number of accessible spaces to be provided is set forth in Table 7-9.

**Table 7-9. Accessible Parking Spaces.**

| Total parking spaces provided | Minimum # of accessible spaces | Minimum # of van-accessible spaces |
|---|---|---|
| 1-25 | 1 | 1 |
| 26-35 | 2 | 1 |
| 36-50 | 3 | 1 |
| 51-100 | 4 | 1 |
| 101-300 | 8 | 1 |
| 301-500 | 12 | 2 |
| 501-800 | 16 | 2 |
| 801-1000 | 20 | 3 |
| Over 1000 | 20 + 1 per each 100 spaces, or fraction thereof, over 1,000 | 1 out of every 8 accessible spaces, or fraction thereof |

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**7.10.15.1. Location.** Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building or pedestrian entrance.

**7.10.15.2. Minimum Dimensions.** All parking spaces reserved for persons with disabilities shall comply with the parking space dimension standards of this section, provided that access aisles shall be provided immediately abutting such spaces, as follows:

**1. Car-Accessible Spaces.** Car-accessible spaces shall have at least a five foot wide access aisle located abutting the designated parking space.

**2. Van-Accessible Spaces.** Van-accessible spaces shall have at least an eight foot wide access aisle located abutting the designated parking space.

**7.10.15.3. Surfacing.** All accessible parking spaces and associated access isles shall be paved or of other hard surface, even if the remainder of the parking lot is unpaved.

**7.10.15.4. Signs and Marking.** Required spaces for persons with disabilities shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities. Signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level.

**7.10.16. Vehicle Stacking Areas.**

**7.10.16.1. Minimum Number of Spaces.** The minimum number of stacking spaces shall be provided pursuant to Table 7-10.

**Table 7-10: Vehicle Stacking Areas.**

| Activity type | Minimum stacking spaces | Measured from |
|---|---|---|
| Bank teller lane | 4 | Teller or window |
| Automated teller machine | 3 | Teller |
| Restaurant drive-through | 6 | Order box |
| Car wash stall, automatic | 4 | Entrance |
| Car wash stall, self-service | 3 | Entrance |
| Gasoline pump island | 2 | Pump island |
| Other | Determined by Administrator | |

**7.10.16.2. Design and Layout.** Where stacking is required, it shall conform to the following standards:

**1.** No stacking space may occupy any portion of a public right-of-way;

**2.** The minimum pavement lane width shall be twelve feet;

**3.** Stacking spaces shall not be used to satisfy any of the off-road parking or

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loading requirements except spaces at gas stations, where one space per pump may count toward off-road parking requirements;

**4.** Stacking lanes shall not interfere with parking spaces, parking aisles, loading areas, internal site circulation or driveways; and

**5.** A twelve foot by-pass lane is required adjacent to the stacking lane to allow vehicles to circumvent the drive-through lane.

**7.10.17. Off-Road Loading Areas.** Every nonresidential building (or part thereof) where receipt or distribution by vehicles or materials or merchandise is planned to occur shall provide and maintain loading space in accordance with Table 7-11.

**Table 7-11: Off-Road Loading Requirements.**

| Gross floor area | Number of required loading spaces |
|---|---|
| Less than 10,000 sq. ft. | None |
| 10,000 - 75,000 sq. ft. | 1 |
| 75,001 - 125,000 sq. ft. | 2 |
| Each additional 100,000 sq. ft. | 1 |

**7.10.18. Passenger Drop-Off Areas.**

**7.10.18.1.** All public and private schools, general day care and large-family day care uses, institutional uses, and recreational uses shall provide an onsite area for drop-offs and pick-ups.

**7.10.18.2.** Drop-off and pick-up areas for public or private schools shall provide for at least one automobile and one half of a school bus space for each fifty students, not to exceed eight automobile or bus spaces.

**7.10.18.3.** Drop-off and pick-up area for a day care, institutional and recreational use shall provide at least one drop-off/pick-up space and also shall provide a maneuvering area to allow vehicles to drop-off and pick-up passengers and exit the site without backing.

**7.10.18.4.** Drop-off and pick-up areas may be adjacent to a primary driveway access or aisle, but shall be located far enough off the road to prevent back-up onto the road.

**7.10.18.5.** Minimum widths for a drop-off and pick-up area that is combined with an access drive are 12 feet for one-way traffic and 24 feet for two-way traffic.

## 7.11. ROAD DESIGN STANDARDS.

**7.11.1. Purpose and Findings.** These regulations are designed to:

**7.11.1.1.** Ensure that the design of roads conforms to the policies of the SGMP;

**7.11.1.2.** Provide for the safety for both vehicular and pedestrian traffic;

**7.11.1.3.** Provide for livable residential, mixed-use and commercial environments;

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**7.11.1.4.** Provide for economy of land use, construction, and maintenance; and

**7.11.1.5.** Provide safe and efficient access to property.

**7.11.2. Applicability.** The standards of this § 7.11 shall apply to all development. Tables 7-12 and 7-13 provide road design standards. Urban road standards shall apply to all roads within SDA-1 and SDA-2, and to all planned development and mixed-use zoning districts. Rural road standards shall apply to all roads within SDA-3.

**Table 7-12: Urban Road Classification and Design Standards (SDA-1 and SDA-2).**

| | Avg. daily traffic | # of driving lanes | Lane width (ft) | Sidewalks | Bike lanes | Minimum ROW (ft) | Design Speeds (mph) | Max % Grade | Min. agg. base course | Min. bit. pavement | Max % Super-elev. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Major Arterial or highway** | 5000 + | 2-6 | 12 | Two 5' | Two 5 ft on-road | ~~100~~150 | Level: 50+ Rolling: 50+ Mount.: 50+ | 5% | 6" | 6" | Refer to AASHTO |
| **Minor arterial** | 2000 to 4999 | 2 - 4 | 12 | Two 5' | Two 5 ft on-road | ~~60 to 100~~120 | Level: 30-60 Rolling: 30-60 Mount.: 30-60 | 5% | 6" | 5" | Refer to AASHTO |
| **Collector** | 601 to 1999 | 2 | 11 | Two 5' | Two 5 ft on-road | ~~45 to 72~~80 | Level: 30+ Rolling: 30+ Mount.: 30+ | 8% | 6" | 4" | 5% |
| **Sub-collector** | 301 to 600 | 2 | 11 | Two 5' | Two 5 ft on-road | 60 | Level: 30+ Rolling: 30+ Mount.: 30+ | 8% | 6” | 4” | 5% |
| **Local** | 0 to 400 | 2 | 10 | One5' | n/a | ~~34 to 48~~50 | Level: 20-30 Rolling: 20-30 Mount.: 20-30 | 7% | 6" | 3" | 5% |
| **Cul-de-Sac** | 0 to 300 | 2 | 10 | n/a | n/a | ~~20~~38 | Level: 30-50 Rolling: 20-40 Mount.: 20-30 | 9% | 6" | 3" | n/a |
| **Alley** | n/a | 1 | 12 | n/a | n/a | 19 | n/a | 7% | 6” | 3” | n/a |
| **Driveway** | n/a | 1 | 14 | n/a | n/a | 20 | n/a | ~~6~~10 % | n/a | n/a | n/a |

**Table 7-13: Rural Road Classification and Design Standards (SDA-3).**

| | Avg. daily traffic | # of driving lanes | Lane width (ft) | Non- vehicular side paths | Bike lanes | Minimum ROW (ft) | Design Speeds (mph) | Max % Grade | Min. agg. base course | Double penetration chip seal with fog coat | Min. bit. pavement | Max % Super- elev. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Major arterial or highway** | 5000 + | 2-4 | 12 | n/a | Two 5 ft on-road | 150 | Level: 70<br>Rolling: 70<br>Mount.: 50-60 | 5% | 6" | n/a | 6" | 8% |
| **Minor arterial** | 2000 to 4999 | 2 - 4 | 12 | n/a | Two 5 ft on-road | ~~70 to 100~~120 | Level: 60-75<br>Rolling: 50-60<br>Mount.: 40-50 | 5% | 6" | n/a | 5" | 8% |
| **Collector** | 401-1999 | 2 | 11 | n/a | n/a | ~~60 to~~ 80 | Level: 40-60<br>Rolling: 20-50<br>Mount.: 20-40 | 8% | 6" | n/a | 4" | 8% |
| **Local** | 201-400 | 2 | 10 | n/a | n/a | ~~56~~50 | Level: 30-50<br>Rolling: 20-40<br>Mount.: 20-30 | 9% | 6" | n/a | 3" | 8% |
| | 0-200 | | | | | | | | 6" | yes | n/a | |
| **Cul-de-Sac** | 0 to 300 | 2 | 10 | n/a | n/a | ~~20~~38 | Level: 30-50<br>Rolling: 20-40<br>Mount.: 20-30 | 9% | 6" | n/a | n/a | n/a |
| **Driveway** | n/a | 1 | 14 | n/a | n/a | 20 | n/a | ~~9~~10 % | ~~4"~~n/a | n/a | n/a | n/a |

**7.11.3. General Requirements**. Adequate roads shall be provided such that the arrangement, character, extent, width and grade of each shall conform to this section.

**7.11.3.1. Connectivity.** The arrangement of roads in any development shall provide for the continuation or appropriate projection of existing or proposed highway or arterial roads in surrounding areas according to the Official Map, and shall provide reasonable means of ingress and egress to surrounding property. Roads within subdivisions shall not be gated unless the road is a dead end road serving no more than five (5) lots.

**7.11.3.2. Road Names.** Road names or numbers shall not duplicate or be similar to the names or numbers of existing roads; if the proposed road is an extension of an existing road, then the proposed road shall have the name of the existing road. All road names and numbers shall be assigned by the Santa Fe County Rural Addressing Division.

**7.11.3.3. Service Life.** Pavement shall be designed for a 20-year service life, and the design of pavement structures shall conform to the New Mexico Standard Specifications for Road and Bridge Construction. Pavement design documentation shall be prepared and signed by, or shall be under the supervision of, a professional engineer.

**7.11.3.4. Rules of Interpretation.** If and where this § 7.11 fails to adequately address a road standard or specification, then the Administrator shall refer to the current or currently adopted version of the following manuals or guides, in the following order, until an adequate and appropriate standard or specification is found:

**1.** the *Standard Specifications for Highway and Bridge Construction* of the New Mexico Department of Transportation (NMDOT);

**2.** the *Policy on Geometric Design of Highways and Streets* ('Green Book') by the American Association of State Highway and Transportation Officials (AASHTO);

**3.** the *Manual on Uniform Traffic Control Devices* (MUTCD) by the Federal Highway Administration;

**4.** *Guidelines for Driveway Location & Design*, by the Institute of Transportation Engineers; and

**5.** *Roadside Design Guide* by the American Association of State Highway and Transportation Officials (AASHTO);

**7.11.3.5. Cuts and Fills.**

**1.** All development, including roads, buildings, parking areas, and driveways shall be located so as to minimize areas of cut and fill. Fill slopes shall not exceed a 3:1 ratio and cut slopes shall not exceed a 2:1 ratio unless designed by a New Mexico Professional Engineer.

**2.** Cut and fill slopes combined shall not exceed 20 feet.

**3.** Retaining walls shall not exceed ten feet in height

**4.** All cut and fill slopes shall not be less than three (3) feet from property lines.

**7.11.4. Base Course and Soil Compaction Standards.**

**7.11.4.1.** Soil classification and sub-grade conditions shall determine the base course thickness required. A minimum of six (6) inches of base course shall be required in all cases and more than six (6) inches may be required if soil conditions so indicate. In wet or swampy ground, rock or an acceptable alternative to rock as recommended by a licensed soils engineer shall be placed so as to establish a sub-base for placement of base course. Base course shall be watered and rolled to a compaction of not less than ninety-five (95) percent of maximum density, according to methods specified by the AASHTO, T-180 moisture density test.

**7.11.4.2.** Base course and sub-base aggregate shall meet the gradation requirements specified in Table 304, Class I, II or III, NMDOT 'Standard Specifications for Road and Bridge Construction' and shall have a plasticity index of eight to twelve percent (8% - 12%), a copy of which is on file for public inspection in the office of the Code Administrator. Plasticity index does not apply to roads to be constructed for a paved surface.

**7.11.4.3.** There shall be a minimum of three percent (3%) crown in the driving surface for water runoff.

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**7.11.5. Drainage; Curb and Gutter.**

**7.11.5.1. Culverts.** Culverts, if used, shall be sized to accommodate a one hundred (100) year storm. Culverts shall also be of sufficient size, gauge, and length, and placed appropriately deep to withstand projected traffic loading and storm runoff.

**7.11.5.2. Curb and Gutter.** Curb and gutter shall be required where deemed necessary for drainage control or protection of pedestrians.

**7.11.6. Intersections and roundabouts.**

**7.11.6.1.** Roads shall be laid out to intersect each other as nearly as possible at ninety (90) degree right angles; under no condition shall intersection angles be less than seventy (70) degrees.

**7.11.6.2.** Offset intersections less than two hundred (200) feet apart shall not be permitted.

**7.11.6.3.** Property lines at road intersections shall be rounded with a minimum radius of twenty-eight (28) feet or a greater radius when necessary to permit the construction of a curb and sidewalk or when otherwise needed.

**7.11.6.4.** A tangent of sufficient distance shall be introduced between reverse curves on all roads according to AASHTO standards.

**7.11.6.5.** When connecting road centerlines deflect from each other at any point by more than ten degrees, they shall be connected by a curve with a sufficient radius adequate to ensure adequate sight distance according AASHTO standards.

**7.11.6.6.** Grades at the approach of intersections shall not exceed five percent (5%) for one hundred (100) linear feet prior to the radius return of the intersection, excluding vertical curve distance.

**7.11.6.7.** Curvature in intersection design alignments shall not be less than stopping distances required for the design speed of the road as per AASHTO Standards. The geometry of intersections shall be consistent with the design speed of the road and AASHTO Standards.

**7.11.6.8.** Road jogs with centerline offsets of less than two hundred (200) feet shall be prohibited.

**7.11.6.9.** A capacity analysis of any proposed roundabout shall be conducted in accordance with Highway Capacity Manual methods. The analysis shall include consideration for the largest motorized vehicle likely to use the intersection.

**7.11.6.10.** Roundabouts shall be designed in conformance with the guidelines set forth in the Federal Highway Administration (FHWA) publication "Roundabouts: An Informational Guide." (Second Edition Report 672, National Cooperative Highway Research Program, 2010).

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**Figure 7.4: Structures and Plantings within Corner Setback.**

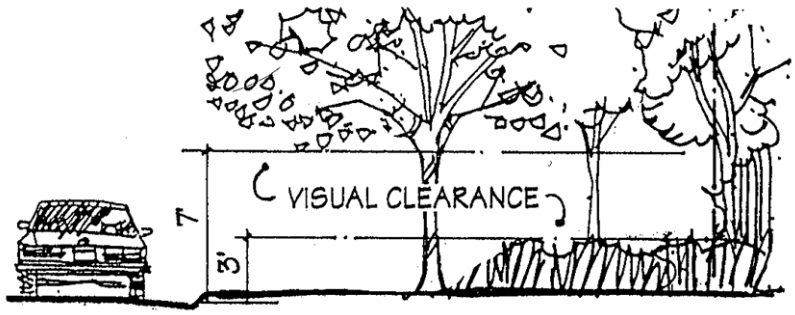
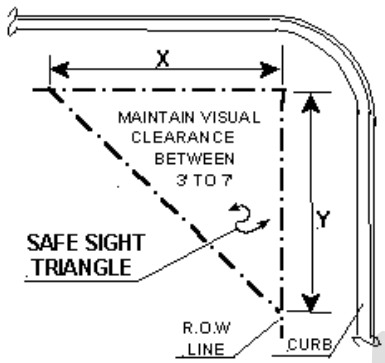



**Figure 7.5: Safe Sight Triangle.**




**7.11.6.11.** **Corner setbacks.** A corner setback consists of the area formed by the legs of a triangle whose apex is the point of intersection of the rights-of-way lines of the adjacent roads, as shown in Figure 7.5. Table 7-14 establishes the minimum required corner setbacks~~, measured in accordance with subsections 7.11.6.1, 7.11.6.2 and 7.11.6.7~~.

**1.** No structure or planting (at mature growth) that exceeds three feet in height shall be permitted within a corner setback, except for utility poles, lighting standards, mail boxes, county or state traffic signs, and trees so long as the lower canopy of the tree permits a clear line of sight between three and seven feet above the road grade as shown in Figure 7.4.

**Table 7-14: Minimum Corner Setbacks for Safe Sight Triangle.**

| Intersection Type (x) | Intersection Type (y) | |
|---|---|---|
| | **Road** | **Driveway** |
| Road | 40 feet | 30 feet |
| Driveway | 30 feet | n/a |

**7.11.7. Cul-de-sacs (dead end roads).**

**7.11.7.1.** Cul-de-sacs (dead end roads) shall not serve more than thirty (30) dwelling units.

**7.11.7.2.** At the closed end there shall be a turn-around having a minimum driving

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surface radius of at least forty-two (42) feet for roads under 250 feet long and at least fifty (50) feet for roads 250 feet and longer. The Administrator, in consultation with the Fire Marshal, may approve a suitable alternative such as a hammerhead or turnaround.

**7.11.7.3.** All turn around areas shall be designed to protect existing vegetation and steep terrain.

**7.11.8. Utilities.** All utilities shall be located within prescribed utility easement or right-of-way.

**7.11.9. Cut and Fill.** All roads shall be located so as to minimize areas of cut and fill and shall be located to conform to sound terrain management principles. Fill slopes shall not exceed a 3:1 ratio and cut slopes shall not exceed a 2:1 ratio; provided, however higher cut and fill ratios may be allowed if the applicant provides a detailed report and engineered design prepared by an engineer registered in the State of New Mexico that supports a higher cut and fill ratio.

**7.11.10. Road and Highway Signage and Striping.**

**7.11.10.1.** All signs, striping, signals and other traffic safety devices shall be installed and maintained according to MUTCD standards.

**7.11.10.2.** Following full acceptance of a road by the County, road and highway name signs shall be installed at all intersections.

**7.11.11. Road Access.**

**7.11.11.1. Generally.**

**1.** Legal road access shall be provided to each lot. Proof of legal access shall be provided with any application.

**2.** Each lot shall directly access a road constructed to meet the requirements of this section.

**3.** Except as provided below in Section 7.11.11.4, all new lots created, shall be provided with adequate access for ingress, egress, utility service, fire protection and emergency services whether by constructing on-site and off-site roads meeting the standards of this Section 7.11 or by direct access to a public road.

**4.** When a tract to be developed borders an existing road having a right-of-way insufficient to conform to the minimum standards required by these regulations, which right-of-way will be used by the proposed development, sufficient right-of-way shall be platted, and dedicated or reserved in such a way as would make the resulting right-of-way or road conform with the requirements of this Section 7.11.

**7.11.11.2. Access to Highways and Arterial Roads.**

**1.** All developments shall be designed to have the minimum number of intersections with roads, arterials or highways specified in subsection 7.11.12.3 below.

**2.** Where a development accesses a State or federal highway, an access permit is required from NMDOT or the Federal Highway Administration.

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**7.11.11.3. Access to Subdivisions, Non-Residential Development and Multi-Family Development.**

**1.** Where a subdivision is divided into large tracts and/or phased development is planned to occur, then a coordinated road system shall be designed with reference to all tracts and/or phases.

**2.** Major subdivisions of thirty-one (31) lots or more, those with 31 or more development units, or those non-residential developments consisting of 25,000 square feet or more, shall provide access to an existing County road, highway, state highway or federal highway and shall provide a minimum of two (2) access points to the referenced roadway. Such development shall also provide for connections to roads and highways identified on the Official Map.

**3.** A major subdivision, non-residential development exceeding 10,000 square feet and multi-family development shall provide all-weather access during a 100 year storm event to all lots or development sites.

**7.11.11.4. Standards for Land Divisions and Subdivisions Exemptions.**

**1.** Divisions of land for grazing or farming as identified in Section 5.4.3.8. are exempt from on-site and off-site road requirements.

**2.** Divisions of land that create no parcel smaller than one hundred forty (140) acres as identified in Section 5.4.3.11 are exempt from on-site and off-site road requirements, except when more than one (1) such parcel is created in an area of land, the Administrator may require on and off-site road improvements.

**3.** Other land divisions and subdivisions exemptions may reduce the road easement width for off-site roads to no less than 20 feet if adequate drainage control is provided and may allow the surface to be hardpacked dirt with compaction of 95% of the maximum density.

**4.** required off-site and on-site road improvements shall be constructed prior to plat recordation.

5. Plats creating a sending area for TDR purposed shall be exempt from on-site and off-site road improvements.

**7.11.12. Driveways.** Access to individual lots and parking areas shall be designed in accordance with the requirements of this subsection.

**7.11.12.1. Driveway Standards .**

**1.** Driveways shall not be located within the functional area of an intersection or located in such a manner as to interfere with the entry into or exit from an adjacent driveway.

**2.** All driveways shall conform to all minimum sight distances specified per AASHTO.

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**3.** The entrance of a driveway to a road shall not impede the flow of stormwater along the road or highway. Installation of culverts may be required to ensure compliance with this section. If installed, a culvert shall be at least eighteen (18) inches diameter. In addition, end sections and/or riprap may be required at driveways along steeper terrain.

**7.11.12.2. Additional Standards for Residential Driveways.**

**1.** Residential driveways shall serve no more than two (2) lots.

**2.** Lots within residential subdivisions shall be limited to a single access point or driveway.

**3.** Access to a lot shall be from a local or collector road, except where the only possible access is from an arterial road or highway.

**4.** A twenty-five (25) foot asphalt apron shall be required on a driveway that accesses an arterial or highway. A twelve (12) foot asphalt or concrete apron shall be required on a driveway that accesses a paved collector, subcollector or local road.

**7.11.12.3. Additional Standards for Non-Residential, Multi-Family and Mixed-Use Driveways.**

**1.** Driveways shall be aligned with opposing driveway approaches where practicable.

**2.** No driveway may be located closer than 50 feet from the transition point of a turning lane/deceleration lane.

**3.** Driveway spacing is subject to the requirements of Table 7-15.

**Table 7-15: Separation of driveways for Non-Residential, Multi-Family and Mixed-Use Parcels.**

| Posted Speed (m.p.h.) | Minimum Distance (feet) |
|---|---|
| 25-30 | 200 |
| 30-35 | 270 |
| 35-40 | 315 |
| 40-45 | 375 |
| 45+ * | 400+ |

* For driveway spacing at speeds greater than 45 miles per hour consult Table 6, Speed Change - Lane Length Requirements for Driveway Spacing; NMDOT, Regulations for Driveways and Median Openings on Non-Access Controlled Highways.

**4.** Acceleration/deceleration lines shall be provided as warranted;

**5.** Driveway profiles, design elements, corner clearance, and performance standards for acceleration or deceleration lanes shall conform to the NMDOT's

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Regulations for Driveways, and Median Openings on Non-Access Controlled Highways;

**6.** Driveway design and placement shall coordinate with internal circulation and parking design such that the entrance can absorb the maximum rate of inbound traffic during a normal weekday peak traffic period as determined by a New Mexico Professional Engineer or other qualified professional; and

**7.** A 50 foot asphalt or concrete apron shall be required on driveways accessing a paved road.

**7.11.13. On-road Parking.** On-road parking shall be a minimum of seven (7) feet in width. A parking lane of at least seven (7) feet may be provided on a local road or sub-collector.

**7.11.13.1.** A minimum of 1.5-foot-wide operational offset shall be provided between the face of the curb and the edge of potential obstructions such as trees and poles. This allows for the unobstructed opening of car doors.

**7.11.13.2.** Parking shall be prohibited within 10 feet of either side of fire hydrants or as per fire code, whichever is more restrictive, at least 20 feet from nearside of mid-block crosswalks without curb extensions, and at least 20 feet from the curb return of intersections (30 feet from signalized intersections).

**7.11.14. Roads and Driveways in Steep Terrain.**

**7.11.14.1.** Where a road, highway or driveway are located on a natural slope of fifteen percent (15%) or greater, or where cut or fill slopes would exceed six (6) vertical feet, the developer shall propose alternative terrain management techniques to limit excessive grading and removal of vegetation. Such alternatives may include, but are not limited to, split road beds, steeper cuts and fills where soils are stable enough to sustain higher cut and fill ratios, terracing with reverse grades for revegetation with trees and shrubs, or rock plating or retaining walls.

**7.11.14.2.** Notwithstanding the provisions of subsection 7.11.6.1, roads and highways located on a natural slope of fifteen percent or greater shall intersect at a minimum angle of sixty (60) degrees. Notwithstanding the provisions of subsection 7.11.6.6, horizontal and vertical curvature shall not exceed ten (10) percent.

**7.11.14.3.** Temporary roads or driveways shall not be permitted.

**7.11.15. Sidewalks.**

**7.11.15.1.** Sidewalks are required where required by Tables 7-12 and 7-13, and as indicated in the Official Map.

**7.11.15.2.** The minimum sidewalk or walking path width shall be four feet.

**7.11.15.3.** Sidewalks or walking paths shall be constructed of four inch (4") thick concrete or other hard surface materials such as permeable materials, brick, asphalt, or unit-pavers. .

**7.11.16.4.** Sidewalks or walking paths shall not be located on the roadway surface or in a storm drainage.

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**7.11.16. Bike Lanes.** Bike lanes shall be required along all roadways as required by Tables 7-12 and 7-13, and as indicated on the Official Map. Bike lanes shall be designed as set forth Table 7-16.

**Table 7-16: Bike Lane Design Criteria.**

| | **On-road bike lanes** |
|---|---|
| Overhead clearance (min. feet) | 7.5 |
| Right-of-way width (min.) | within road right-of-way |
| Lane width (minimum, feet) | 5 |
| Lane width with on-road parking, combined bike lane and parking stall (minimum, feet) | 14 |

**7.11.17. Maintenance and Dedication of Subdivision Roads.**

**7.11.17.1.** Any road not accepted for maintenance by the County shall be maintained by the developer or a homeowners' association (HOA) in accordance with § 7.23.

**7.11.17.2.** The County will not accept a road for maintenance via dedication unless the requirements of § 7.23 are met.

## 7.12. UTILITIES.

**7.12.1. Undergrounding.** Installation of new and replacement utilities, including but not limited to natural gas lines, electric utility lines, water lines, telephone and television cables, and communications cables, shall meet the following standards:

**7.12.1.1.** Electric utility lines that transmit electricity at a voltage less than 46 kilovolts shall be placed underground. Electric utility lines that transmit electricity at a voltage equal to or greater than 46 kilovolts may be placed above ground unless public health and safety requires such lines to be placed underground.

**7.12.1.2.** Notwithstanding the previous paragraph, electric utility lines that transmit electricity at a voltage less than 46 kilovolts may be placed above ground to serve infill development in areas already served by an above-ground electric utility line.

**7.12.1.3.** Above-ground electric utility lines that transmit electricity at a voltage greater than or equal to 46 kilovolts shall be designed and constructed at the minimum height necessary for the proposed structure to function properly and for public health, safety and welfare, as demonstrated by the applicant. Above ground electric utility lines that transmit electricity at a voltage less than 46 kilovolts shall not exceed forty feet in height.

**7.12.1.4.** All utility installations shall meet the design standards for grading and removal of vegetation and re-vegetation in § 7.6.

**7.12.1.5.** Shared or joint utility trenching and installation shall be required to the extent practicable.

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**7.12.1.6.** Areas for the location of multiple utilities within road right-of-ways or easements shall be reserved.

**7.12.2.** All utilities shall be placed within designated utility easements.

**7.12.3.** All easements shall be maintained by the property owner(s).

**7.12.4.** Utilities serving agricultural operations are exempt from the provisions of this section.

## 7.13. WATER SUPPLY, WASTEWATER AND WATER CONSERVATION.

**7.13.1. Water Supply and Distribution.** The water supply and distribution system required of any development is dependent upon the nature of the development, the Sustainable Development Area (SDA) in which the development is located, and the proximity of the development to public water and wastewater infrastructure .

**7.13.2. General Requirements.**

**7.13.2.1. Water and wastewater systems required.** Each development shall provide water and wastewater systems within the development as required by this section.

**7.13.2.2 Construction standards.**

**1.** Water and wastewater systems shall comply with all applicable construction and operational standards of the SLDC and applicable federal and State law.

**2.** Water and wastewater infrastructure that will become a part of the County's water and wastewater utility, either upon completion of the development or when service becomes available, shall be constructed to standards established from time to time by the County's water and wastewater utility authority. Each such facility shall be constructed so as to permit connection to the County utility when such a connection becomes feasible.

**3.** Water and wastewater infrastructure that will become part of the water and wastewater system of another entity shall be constructed to meet the standards established by that entity.

**7.13.2.3. Readiness.** Each applicant for a development order shall establish in writing that a proposed service provider (County utility, mutual domestic water association, water and sanitation district, municipal water or wastewater utility, water or wastewater cooperative) is ready, willing, and able to provide service. The applicant shall provide such additional details concerning the proposed service provider and its readiness to provide service as the Administrator may deem appropriate.

**7.13.2.4. Required connection to the County, or a public water and wastewater systems.** Persons desiring to develop property may be required to connect to the County's water and wastewater utility for water and wastewater service as described in subsection 7.13.3, or connect to a public or publicly-regulated water and wastewater system as described in subsection 7.13.4, or to self-supply water and wastewater service as described in subsection 7.13.5.

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**Table 7-17: When Connection Required to County Utility Water/Sewer.**[1]

| | | Property Location | | |
|---|---|---|---|---|
| | | **SDA-1** | **SDA-2** | **SDA-3** |
| **Development Type** | Residential Development Permit | **if within 200 feet** | **if within service area and within 400 feet** | **if within service area and within 600 feet** |
| | Residential Land Division | **if within 330 feet** | **if within service area and within 1,320 feet** | **if within service area and within 2,640 feet** |
| | Multi-family (5+ units) | **Yes** | **if within service area** | **if within service area** |
| | Minor Subdivision | **Yes** | **if within service area** | **if within service area and within 2,640 feet** |
| | Major Subdivision | **Yes** | **if within service area** | **if within service area** |
| | Non-residential (~~under 10,000 sf~~using up to 0.25 AF water) | **if within 400 feet** | **if within service area and within 600 feet** | **if within service area and within 800 feet** |
| | Non-residential (~~over 10,000 sf~~using over 0.25 AF water) | **Yes** | **if within service area** | **if within service area and within 2,640 feet** |

**7.13.3. Required Connection to County Water and Wastewater.**

**7.13.3.1.** Connection to the County's water and wastewater utility is required if specified in Table 7-17.

**7.13.3.2.** If any part of a proposed development is within the distance where connection to a public or publicly-regulated private water or wastewater system is required, then the entire development shall make the connection to the utility when the utility becomes ready, willing and able to supply the development, even if development is phased.

**7.13.3.3.** All infrastructure required to connect a development to County water and wastewater shall be provided by the applicant and shall be dedicated to the County. The infrastructure shall be designed and constructed to specifications provided by the County's water and wastewater utility, and shall be inspected by the County prior to acceptance.

**7.13.3.4.** If connection to County water and wastewater utility is not required in Table 7-17 or the County utility is unable to immediately provide service, but the property in question is located within SDA-1 or within the County utility service area at the time of application, then all necessary facilities to subsequently connect to County water and

[1]For purposes of this section, all distances shall be measured between the nearest point of County infrastructure that is capable of providing service and the property line of the property to be developed, not from any structure located or to be located on the property.

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wastewater service shall be provided. When County water and/or wastewater service, or both, subsequently become available to such a development, the development shall be required to connect; that requirement will be clearly specified in the development order, relevant plat, or subdivision disclosure statement, and shall be made a part of the voluntary development agreement.

**7.13.3.5.** Concerning the requirements of the previous paragraph, when connection to the County water and wastewater utility subsequently becomes feasible in the written opinion of the Administrator, the development shall immediately make the connection and be served by the County. The infrastructure, interior to and exterior to the development, shall be transferred to the County upon assumption by the County of water and/or wastewater service.

**7.13.3.6.** Where the County water and wastewater utility provides written confirmation to the Administrator that water, wastewater service, or both, will not be available to a development within five (5) years, the requirements of subparagraphs 1, 2, and 3, above, shall not apply.

**7.13.3.7.** The development order, plats, disclosure statement and private covenants, as applicable, shall clearly specify that the drilling or use of individual and/or shared domestic wells is strictly prohibited on property supplied by the County water utility.

**7.13.4. Required connection to public water and wastewater systems other than the County.**

**7.13.4.1.** Unless the provisions of subsection 7.13.3 apply, connection to public water and wastewater systems or publicly-regulated private systems shall be required if specified in Table 7-18.

**7.13.4.2.** Water and wastewater systems to which this subsection applies are (a) a mutual domestic water association, (b) a water and sanitation district, (c) a municipal water or wastewater utility, (d) a water or wastewater system, public or private, that is regulated by the Public Regulation Commission, or (3) a cooperative.

**7.13.4.3.** If connection to a public water and wastewater system or a publicly-regulated private water or wastewater system is not required in Table 7-18, or the public or publicly-regulated water private water or wastewater system is unable to immediately provide service, but the property in question is located within SDA-1 or is within the service area of a public water or wastewater system or a publicly-regulated private or public water or wastewater system, necessary facilities to connect to the public or publicly-regulated water and wastewater system shall be provided. When a public or publicly-regulated water and wastewater system becomes available to such a development, the development shall be required to connect; that requirement will be clearly specified in the development order, relevant plat, or subdivision disclosure statement, and shall be made a part of the voluntary development agreement.[2]

**7.13.4.4.** Where a public or publicly-regulated water or wastewater system provides written confirmation to the Administrator that water, wastewater service, or both, is not presently available or will not be available within five (5) years, the requirements of subparagraphs 1, 2 and 3, above, shall not apply.

[2]The development agreement may provide that such interconnection be provided later so long as adequate security is also provided.

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**7.13.4.5.** If any part of a development is within the distance where connection to a public or publicly-regulated private water or wastewater system is required, then the entire development shall make the connection to the utility when the utility becomes ready, willing and able to supply the development, even if development is phased.

**7.13.4.6.** The development order, plats, disclosure statement and private covenants, as applicable, shall clearly specify that the drilling or use of individual and/or shared domestic wells is strictly prohibited on property supplied by a public or publicly-regulated water utility.

**Table 7-18: When Connection Required to Public Water/Sewer or Publicly-Regulated Water/Sewer.**[3]

| | | Property Location | | |
|---|---|---|---|---|
| | | **SDA-1** | **SDA-2** | **SDA-3** |
| **Development Type** | Residential Development Permit | **if service area and within 200 feet** | **if service area and within 400 feet** | **if service area and within 600 feet** |
| | Residential Land Division | **if within service area and within 330 feet** | **if within service area and within 1,320 feet** | **if within service area and within 2,640 feet** |
| | Multi-family (5+ units) | **Yes** | **if within service area** | **if within service area** |
| | Minor Subdivision | **Yes** | **if within service area** | **if within service area and within 2,640 feet** |
| | Major Subdivision | **Yes** | **if within service area** | **if within service area** |
| | Non-residential (~~under 10,000 sf~~ using up to 0.25 AF water) | **if within service area and within 400 feet** | **if within service area and within 600 feet** | **if within service area and within 800 feet** |
| | Non-residential (~~over 10,000 sf~~using over 0.25AF water) | **Yes** | **if within service area** | **if within service area and within 2,640 feet** |

**7.13.5. Self-supplied water and wastewater systems.**

**7.13.5.1.** Unless the provisions of subsections 7.13.3 or 7.13.4 apply, water and wastewater systems shall be self-supplied by the applicant.

**7.13.5.2.** Self-supplied water and wastewater systems are subject to all the requirements in subsections 7.13.6. and 7.13.7 below.

**7.13.5.3.** If water and wastewater service is to be self-supplied, all the costs of providing water and wastewater infrastructure and water and wastewater service shall be borne by the applicant, although the applicant may make appropriate arrangements to delegate the operational expenses of water and wastewater to a homeowner's association or

[3]For purposes of this section, all distances shall be measured from the property line of the property to be developed and not from any structure located or to be located on the property.

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appropriate entity. Infrastructure associated with a self-supplied system shall be private infrastructure and the County shall have no responsibility therefor; similarly, the obligation to operate and maintain a self-supplied system and the obligation to serve residents shall remain a private obligation and the County shall have no responsibility therefor.

**7.13.5.4.** If connection to the County water and wastewater utility or connection to a public or publicly-regulated water and wastewater system is not required by operation of Table 7-17 or 7-18 but the property is located within SDA-1 or is within the service area of the County water and wastewater utility or a publicly-regulated private or public water or wastewater system, then all necessary facilities to subsequently connect to County water or wastewater service or to public or publicly-regulated water and wastewater, shall be provided. When County water and wastewater service, or public or publicly-regulated water and wastewater becomes available to such a development, the development shall be required to connect; that requirement will be clearly specified in the development order and relevant plat, and shall be made a part of the voluntary development agreement.[4] If the County utility or a public water or wastewater system provides written confirmation to the Administrator that water or wastewater service will not be available for a period of five (5) years, then the requirements of the foregoing shall not apply.

**7.13.6. Water Supply Requirements.**

**7.13.6.1. Quantity and Quality in General.** Each development shall be required to provide water in adequate quantity and quality to meet the needs of a proposed development for ninety-nine (99) years[5]. Regardless of the source of water supply, for planning purposes, the minimum required water supply assumed to be required for development of any type shall be 0.25 acre feet per residential dwelling per annum notwithstanding that the owner or developer claims that less water is to be used. The Administrator may reduce this planning assumption to the actual amount of water expected to be used given the type of construction and use contemplated upon a showing from the applicant that a lesser planning figure is reasonable. Annual water use limitations are established in subsection 7.13.11 ("Water Conservation") of the SLDC, and shall also apply.

**7.13.6.2. Water Service Availability Report.** The Water Service Availability Report (WSAR) required by Chapter 6 shall provide details on the source of water, including whether the source of water will be the County utility or a public or publicly-regulated water system, and shall discuss in detail any required water supply infrastructure to be provided (its cost, details of the design and construction, construction schedule, financing of design, construction cost, and operational cost including capital replacement), and shall discuss in detail whether the proposed system is capable of meeting the water requirements of the development as required by the SLDC.

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[4]The development agreement may provide that such interconnection be provided later so long as adequate security is also provided.

[5]Or 40 years if the source of supply is a public water system that is a 40 year planning entity pursuant to NMSA 1978, Section 72-1-9.

**Table 7-19: Community Water and Wastewater System Requirement for ~~Developments~~ Subdivisions in SDA-2 and SDA-3.**

| | | Minimum Lot Size (acres) | | | | |
|---|---|---|---|---|---|---|
| | | Less than 1 | 1-2.49 | 2.5-9.99 | 10-39.99 | 40+ |
| **No. of Lots** | 2-4 | no | no | no | no | no |
| | 5-24 | yes | yes | no | no | no |
| | 25-49 | yes | yes | yes | no | no |
| | 50+ | yes | yes | yes | yes | yes |

**7.13.7. Self-Supplied Water Systems.**

**7.13.7.1.** Community Water Systems.

**1.** A ~~self-supplied~~ subdivision shall be required to create a community water system or connect to an existing community water system if specified in Table 7-19.

**2.** A community water system shall meet or exceed all applicable design standards of the New Mexico Environment Department, the Construction Industries Division of the Regulation and Licensing Department and the Office of the State Engineer.

**3.** Water wells supplying a community water system shall be capable of providing the water needs of the development for at least ~~40~~ 99 years (see footnote 5 of Section 7.13.6.1), or shall put in place a reasonable and funded capital replacement program through which the construction of necessary replacement wells and other infrastructure can be assured.

**4.** A community water system shall provide adequate water for fire protection consistent with the requirements of the New Mexico Fire Code and the Santa Fe County Fire Code.

**5.** A community water system shall own water rights permitted by the Office of the State Engineer; the water rights shall have an appropriate place and purpose of use, and the quantity permitted and any conditions imposed on the permit shall be sufficient to meet the maximum annual water requirements of the proposed development. Additionally, if irrigation water rights that are appurtenant to the land to be subdivided have been severed, a community water system shall produce proof of a service commitment from a water provider as well as an opinion from the OSE, that the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirement of the subdivision. An application failing to provide proof of the permitted water rights and proof of a service commitment if required as described in this paragraph shall not be deemed complete.

**6.** All distribution mains within a community water system shall be a minimum of eight (8) inches in diameter and shall be pressure tested in accordance with the New Mexico Standard Specifications for Public Works Construction, Section 801.16 (as amended from time to time).

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**7.** The development order, plats, disclosure statement and private covenants, as applicable, shall clearly specify that the drilling or use of individual and/or shared domestic wells is strictly prohibited on property supplied by a community water system.

**8.** A community water system shall be capable of supplying the volume of water required for the development and shall be designed to provide a peak rate of production reasonably anticipated.

**9.** All applicable requirements of the Public Utility Act, Articles 1 through 6 and 8 through 13 of Chapter 62, NMSA 1978, shall be met, as applicable.

**10.** A community water system shall be designed under the supervision of a New Mexico registered professional engineer. Any expansion of an existing community water system to supply new development shall likewise be designed under the supervision of a New Mexico registered professional engineer.

**11.** Easements, including construction easements, shall be provided.

**12.** Management of a community water system shall be accomplished by competent, professional manager or management consultant. A qualified and certified operator shall be employed or contracted. The management structure of a community water system shall be capable of ensuring that all reports and submissions required by NMED, PRC and the OSE are submitted on a timely basis.

**13.** Financial security shall be deposited to secure the construction of a new or expanded community water system.

**14.** An applicant proposing or required to use a community water system whose source of water is, in whole or in part, groundwater, shall perform a geo-hydrologic report that conforms to the requirements of this SLDC.

**15.** As an alternative to the previous paragraph, a reconnaissance report may be substituted for a geo-hydrologic report as permitted by subsection 7.13.7.4.1 of the SLDC.

**16.** A community water system within a Traditional Community District zoning district shall minimize the use of local water resources.

**7.13.7.2. Shared Wells Systems and Individual Wells.**

**1.** A development that is not required to connect to the County water utility pursuant to Table 7-17, or to a public or publicly-regulated water system pursuant to Table 7-18, or to a community water system pursuant to Table 7-19, may self-supply water service through a shared well system or individual well.

**2.** A shared well system or an individual well shall provide all water needed for domestic use and fire protection.

**3.** A shared well system or an individual well shall meet or exceed all applicable design and operational standards of the New Mexico Environment Department, the Construction Industries Division of the Regulation and Licensing Department and the Office of the State Engineer.

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**4.** A shared well system or an individual well shall be capable of providing the water requirements of the proposed development for up to 40 years or 99 years respectively.[6]

**5.** A shared well system or an individual well, together with its associated equipment and infrastructure, shall provide adequate water for fire protection consistent with the requirements of the ~~New Mexico~~ Fire and Building Codes specified in Section 7.2.

**6.** Water storage to address requirements of the ~~New Mexico~~ Fire and Building Codes specified in Section 7.2~~, Santa Fe County Fire Code~~, or to maintain deliveries during periodic drought or as a result of climate change, shall be provided.

**7.** A shared well system or an individual well shall possess a valid permit, vested right, adjudicated right or license issued by the Office of the State Engineer with sufficient capacity or water rights to meet the maximum annual water requirements of the proposed development. If irrigation water rights that are appurtenant to the land on which the subdivision is to be located have been severed, the owners of a shared well system or an individual well shall produce proof of a service commitment from a water provider as well as an opinion from the OSE, that the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirement of the subdivision. In all other cases, a shared well system shall own water rights permitted by the Office of the State Engineer; the water rights shall have an appropriate place and purpose of use, and the quantity permitted and any conditions imposed on the permit shall be sufficient to meet the maximum annual water requirements of the proposed development. An application failing to provide proof of the permitted water rights and proof of a service commitment if required as described in this paragraph shall not be deemed complete.

**8.** A shared well system or an individual well shall be capable of supplying the volume of water required for the development and shall be designed to provide a peak rate of production reasonably anticipated.

**9.** Easements, including construction easements, shall be provided.

**10.** Financial security shall be deposited to secure the construction of a shared well system.

**11.** The development order, plats, disclosure statement and private covenants, as applicable, shall clearly specify that the drilling or use of other wells within the area to be served by an individual well or shared well system is strictly prohibited.

**12.** An applicant proposing or required to use a shared well system or an individual well shall perform a geo-hydrologic report that conforms to the

[6] Pursuant to NMSA 1978, § 72-1-9, water provided by or on behalf of a member-owned community water system (e.g., a mutual domestic) or a special water users' association, must be capable of meeting a 40-year water supply for its members or association. Pursuant to § 6.5.5.1 of this Code, water provided by or on behalf of an individual must be capable of meeting a 99-year water supply.

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requirements of this SLDC, or, as specified in the following paragraph, a reconnaissance report. An applicant proposing to (i) develop a single lot existing prior to the effective date of the SLDC using a single domestic well permitted under NMSA 1978 Sec. 72-12-1 as the water supply, (ii) develop a single nonresidential use that has a water budget of 0.25 acre foot per year or less, (iii) divide land through a land division or exempt subdivision, or (iv) create a minor subdivision or no more than five (5) lots, shall not be required to provide a geo-hydrologic report or a reconnaissance report, but shall be required to provide a copy of the well permit issued pursuant to NMSA 1978, Sec., 72-12-1 by the Office of the State Engineer.

**13.** As an alternative to a geo-hydrologic report, a reconnaissance report may be substituted for a geo-hydrologic report as permitted by subsection 7.13.7.4.1 of the SLDC.

**7.13.7.3. Standards for geo-hydrologic reports.**

**1.** A geo-hydrologic report,[7] if required, shall demonstrate that groundwater sufficient to meet the maximum annual water requirements of the development is physically available and can be practically recovered to sustain the development for a continuous period of 40 years or 99 years as the case may be[8]. The contents of the report shall be consistent with well-established engineering and geological practice, and shall be certified by those professionals contributing to the study and conclusions.

**2.** The geo-hydrologic report shall take into account the production from existing wells in making conclusions about the ability of a particular well or wells to provide adequate water for the development for 40 years or 99 years as the case may be. (See footnote 7.)

**3.** The geo-hydrologic report shall be predicated upon actual testing results from wells at the location of the proposed development. Test requirements for wells are set forth in Table 7-20. If no well is present at the location of each of the proposed well or wells, an exploratory well shall be provided. If more than one well will be provided, the Administrator shall determine whether the number of test wells and their locations to adequately profile the aquifer. The geo-hydrologic report shall adequately characterize the aquifer in accordance with the requirements listed herein.

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[7]A geo-hydrologic report may be provided as a part of a required study, report or assessment as described in Chapter 6, or separately.

[8] See footnote 7.

| TABLE 7-20: WELL TEST REQUIREMENTS | | | |
|---|---|---|---|
| | Pumping Hours | Recovery Days | Additional Tests for Large Areas |
| **INDIVIDUAL WELLS** | | | |
| Miscellaneous locations | 48 | 5 | one per 40 acres |
| Part of Santa Fe Formation | 36 | 5 | one per 160 acres |
| Cretaceous | 24 | 5 | one per 40 acres |
| **COMMUNITY WELLS** | | | |
| All Areas | 96 | 10 | one per 40 acres |

**4.** Geo-hydrologic reports shall provide detailed reports concerning each test set forth in Table 7-20.

**5.** The geo-hydrologic report may rely upon previously developed geo-hydrologic reports on wells within one (1) mile in lieu of drilling a new well or wells so long as the geo-hydrologic report that is relied upon adequately characterizes the aquifer as specified herein and establishes that the geologic conditions are comparable. Notwithstanding the foregoing, no more than one (1) test well per four (4) dwelling units shall be required, and no more than one (1) test wells per ten (10) dwelling units shall be required where cluster or shared wells are to be used.

**6.** The geo-hydrologic report shall provide a schedule of effects from each proposed well; the schedule of effects shall include effects on the aquifer from existing wells and shall consider the effects of climate and drought. The geo-hydrologic report shall analyze the effect of pumping of existing wells. Predicted draw down of each well shall be calculated in a conservative manner.

**7.** The geo-hydrologic report shall calculate the lowest practical pumping water level in the proposed well or wells so long as there is no presumption made as to additional available water below the bottom of the proposed well or wells, and the total available drawdown shall be reduced by a factor of twenty percent (20%) as a margin of safety to account for seasonal fluctuations, drought, reduction of well efficiency over time, and peak production requirements. The lowest practical pumping water level may be established by any one of the following methods:

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**a.** By using the results of acceptable on-site aquifer pump tests where the lowest allowable pumping level is the lowest water level reached during the test;

**b.** By setting the lowest practical pumping water level at the top of the uppermost screened interval;

**c.** In wells completed in fractured aquifers, by setting the lowest practical pumping water level above the top of the fracture zone; or

**d.** In wells completed in alluvial aquifers, by setting the lowest practical pumping water level at a point equal to seventy percent (70%) of the initial water column.

**8.** The geo-hydrologic report shall present all pertinent information. All sources of information used in the report shall be identified; basic data collected during preparation of the report shall be provided if available.

**9.** The geo-hydrologic report shall contain all of the following information, in the following order:

**a.** Geologic maps, cross-sections and descriptions of the aquifer systems proposed for production, including information concerning the geo-hydrologic boundaries, intake areas and locations of discharge of those aquifers;

**b.** Maps and cross sections showing the depth-to-water, water-level contours, direction of ground water movement and the estimated thickness of saturation in the aquifers; and

**c.** Probable yields of the proposed wells (in gallons per minute and acre feet per year) and probable length of time that the aquifer system will produce water in amounts sufficient to meet the demands under full occupation of the development, including any underlying pump test analyses, hydrologic boundaries, aquifer leakage and historic water level changes, logs and yields of existing wells, aquifer performance tests, and information concerning interference by the proposed wells with existing wells and among the proposed wells.

**10.** If a pumping test has been submitted to the OSE to support an application to change the place or purpose of use of water rights from agricultural to domestic or subdivision use and OSE accepts the pumping test, then the pumping test can be utilized for the purposes of this Section if it complies with Table 7-20.

**7.13.7.4. Standards for reconnaissance reports.**

**1.** A reconnaissance report[9] may be provided only if all of the following circumstances prevail:

[9]A reconnaissance report may be provided as a part of a required study, report or assessment as described in Chapter 6, or separately.

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**a.** a geo-hydrologic report has been completed on a well within one (1) mile of a proposed well or wells;

**b.** a geo-hydrologic report indicates that the geology is comparable to the conditions existing at the site of the proposed well or well;

**c.** the total amount of water to be drawn by the development will not exceed three (3) acre feet per annum; and

**d.** except as may be permitted by the Administrator, no more than one (1) well will be constructed within the proposed development.

**2.** A reconnaissance report shall contain the following information in the following order:

**a.** Detailed information on the geology at the site of the proposed well or wells from the previously-performed geo-hydrologic report, including data from a pump test;

**b.** A copy of the well log for the well upon which the geo-hydrologic report was performed and a complete analysis of the data contained therein as it pertains to the proposed development;

**c.** A calculated ninety-nine (99) year schedule of effects from each proposed well; the schedule of effects shall include effects on the aquifer from existing wells and shall consider the effects of climate, drought and climate change. The reconnaissance report shall analyze the effect of pumping of existing wells and the predicted draw down of each well, calculated in a conservative manner; and

**d.** An explanation of how the findings from the existing geo-hydrologic report justify use for the well or wells in question.

**7.13.8. Individual or Shared Well System.** A development that is not required to connect to the County utility, a public or publicly-regulated utility, or a community water system may self-supply water for a development from any reasonable source, including surface water or groundwater from a shared well system or individual well system.

**7.13.8.1.** An individual well or a shared well system shall provide all the water needed for domestic use and fire protection.

**7.13.8.2.** An individual well, a shared well system or an individual well shall meet or exceed all applicable design and operational standards of the New Mexico Environment Department, the Construction Industries Division and the Office of the State Engineer.

**7.13.8.3.** A shared well system or an individual well shall be capable of providing the water requirements of the proposed development for up to 40 years or 99 years

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respectively.[10]

**7.13.8.4.** a shared well system or an individual well, together with its associated equipment and infrastructure, shall provide sufficient water for fire protection as specified in the New Mexico Fire Code.

**7.13.8.5.** A shared well system or an individual well shall be capable of supplying the volume of water required for the development, shall be capable of supplying the volume of water required for the development, and shall be designed to provide a peak rate of production reasonably anticipated.

**7.13.8.6.** Easements, including construction easements, shall be provided.

**7.13.8.7.** Financial security shall be deposited to secure construction of an individual well or a shared well system.

**7.13.8.8.** The development order, plats, disclosure statement and private covenants, as applicable, on a development where a shared well system is used, shall clearly specify that the drilling or use of other wells is strictly prohibited, except for agricultural wells or wells to supply the County water system or a public water system.

**7.13.8.9.** A shared well system shall provide the appropriate joint ownership agreement, which shall provide for a fair and reasonable apportionment of the costs of operation and capital replacements.

**7.13.9. Water Quality.**

**7.13.9.1** All water systems provided in connection with a development shall provide water of an acceptable quality for human consumption that meets or exceeds water quality standards established pursuant to the Safe Drinking Water Act, the New Mexico Water Quality Act, and regulations promulgated by the NMED and the Water Quality Control Commission.

**7.13.9.2** Any "public water system" as defined in regulations of the New Mexico Environmental Improvement Board (20.7.10.1 NMAC) shall meet or exceed the requirements and standards of 20.7.10.1 NMAC *et seq*., and the Environmental Improvement Act, NMSA 1978, Section 74-1-1 *et seq*. and the regulations of the New Mexico Environment Improvement Board.

**7.13.9.3** Any "public water system" as defined in regulations of the New Mexico Environmental Improvement Board (20.7.10.1 NMAC) shall, as applicable, obtain written permission to commence or continue operations from the New Mexico Environment Department.

**7.13.9.4** A written water quality test that confirms that the water system meets or exceeds the standards described in this subsection shall be provided; if a reconnaissance report is provided in lieu of a geo-hydrologic report, a test may be provided from a well within one (1) mile of the proposed well, but shall be confirmed with the test of the actual well following completion.

[10]See footnote 6.

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**7.13.10. Self-Supplied Wastewater Systems.** As is the case with water supply and distribution systems, the type of wastewater system required of any development is dependent upon the nature of the development, the adopted Sustainable Development Area (SDA) in which the development is located, and the proximity of the development to the County's wastewater utility. *See* Table 7-17. and proximity of the development to any public or publicly-regulated wastewater system; *See* Table 7-18.

**7.13.10.1. ~~General Requirements.~~Community Wastewater Systems.**

**1.** A subdivision shall be required to create a community wastewater system or connect to an existing community water system if specified in Table 7-18.

**2.** A community wastewater system shall meet or exceed all applicable design standards of the New Mexico Environment Department, the Construction Industries Division of the Regulation and Licensing Department and the Office of the State Engineer.

**3.** A community wastewater system shall be capable of treating the volume of wastewater produced by the development at full build-out and shall be designed to treat a peak rate of flow.

**4.** A community wastewater system shall be designed under the supervision of a New Mexico registered professional engineer. Any expansion of an existing community wastewater system to supply new development shall likewise be designed under the supervision of a New Mexico registered professional engineer.

**5.** Easements, including construction easements, shall be provided.

**6.** Management of a community wastewater system shall be accomplished by a competent, professional manager or management consultant. A qualified and certified operator shall be employed or contracted to operate the community wastewater system. The management structure of a community wastewater system shall be capable of ensuring that all required reporting is completed and submitted on a timely basis.

**7.** Financial guaranty shall be deposited pursuant to § 7.22 herein to secure the construction of a new or expanded community wastewater system.

**~~1~~8.** Regardless of whether the County's wastewater system is utilized, all development shall include wastewater systems built to standards established by the County wastewater utility and may be designed and constructed so that they may be connected to the County utility when available.

**~~2~~9.** A wastewater system shall meet all applicable requirements of the Public Utility Act, Chapter 62, NMSA 1978.

~~**7.13.10.2. Required Connection to County Wastewater Utility.** Table 7-17 provides the requirements for connection to the County wastewater utility. In all cases, it is the responsibility of the owner/developer/applicant to provide wastewater infrastructure to the point of connection with the County wastewater utility.~~

**7.13.10.~~3~~2. Where Alternative Wastewater System Allowed.**

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**1.** Any wastewater system provided pursuant to this Section shall meet the requiremnents and standards of 20.7.3 NMAC and 20.6.2 NMAC and shall comply with regulations promulgated by the New Mexico Environment Department.

**2.** Where a development is not required to connect to the County's wastewater system or a public system pursuant to Tables 7-17 or 7-18, an alternative wastewater disposal system shall be used ~~when specified on Table 7-19~~ so long as the appropriate liquid waste permit is obtained from the New Mexico Environment Department and presented to the Administrator as a part of the application.

**3.** Any liquid wastewater treatment system that involves a surface discharge or land application of treated or untreated effluent, shall require presentation of the appropriate permit from the New Mexico Environment Department at the time of application.

**7.13.11. Water Conservation.**

**7.13.11.1. General Requirements.**

**1.** Total water use shall not exceed that specified in the development order, plat note, or the SLDC.

**2.** Annual water use for domestic purposes for a single family residential dwelling shall not exceed 0.25 acre foot per year. This limitation shall not apply to use of water derived from a well permitted pursuant to NMSA 1978, Section 72-12-1 that is used for agriculture, so long as the use is consistent with the terms of the permit. Similarly, this limitation shall not apply to persons owning water rights permitted by the Office of the State Engineer and to the use of water derived from such water rights for agricultural or other purposes.

**7.13.11.2. Outdoor Conservation.**

**1.** Low water use landscaping techniques or xeriscaping shall be utilized for all development. Drip irrigation and landscape mulching shall be provided.

**2.** Only low water use grasses, shrubs and trees that are appropriate to the New Mexico climate shall be used. Sod or grass seed that contains Kentucky bluegrass is not permitted.

**3.** Lawns of non-native grasses shall not exceed 800 square feet and shall only be watered with harvested water or grey water.

**4.** Landscaping may be watered as needed during the first and second years of growth to become established; thereafter landscaping may be watered as is needed to maintain viability.

**5.** Watering or irrigation shall be provided through a timed drip irrigation system that ensures that landscaping is not watered between the hours of 11 a.m. and 7 p.m. between the months of May and November. Irrigation systems shall be equipped with a rain sensor so that the irrigation system does not operate when it is raining or has recently rained. Such approved systems include but are not limited to evapotranspiration-based controllers. This paragraph does not apply to gardens or agricultural uses.

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**6.** Outdoor watering or irrigation is prohibited between 11 am and 7 pm from May through September of each year, except for the following:

**a.** Plants being prepared for sale;

**b.** Manual watering by landscape maintenance and contracting personnel;

**c.** Water derived from rainwater catchment systems or a grey water re-use system; and

**d.** Water derived from an acequia or other agricultural irrigation.

**7.** ~~Car and truck~~Vehicle washing is only allowed with the use of a shut-off hose nozzle.

**8.** An outdoor irrigation system may not be operated if leaking.

**9.** Water leaks shall be repaired promptly and in no event more than ten (10) days from the beginning of the leak. Proof of repair shall be provided upon request.

**10.** All permanent swimming pools, and any temporary pools with a fill capacity over 3,000 gallons, shall be prohibited in accordance with Section 7.24.1 of this SLDC.

**11.** All swimming pools, hot tubs and spas must be covered to prevent evaporation when not in use. Swimming pools may only be emptied once per year.

**7.13.11.3. Indoor Conservation.**

**1.** Water saving fixtures shall be installed in all new construction, remodels and in all remodels and renovations when a fixture is being replaced. .

a. All toilets and flush urinals shall be EPA WaterSense certified or equivalent standard.

b. All lavatory faucets shall be EPA WaterSense certified or equivalent standard.

c. All showerheads shall be EPA WaterSense certified or equivalent standard.

**2.** Water conserving appliances shall be installed in all new construction and in all remodels and renovations when an appliance is being replaced.

a. Residential dishwashers shall be EPA Energy Star certified or equivalent.

b. Residential clothes washers shall be EPA Energy Star certified or equivalent.

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**3.** Water-conserving fixtures shall be installed in strict accordance with the manufacturer's instructions to maintain their rated performance.

**4.** Hot water systems shall ensure that hot water is delivered within five seconds of a tap being opened. This requirement can be achieved through the use, either alone or in combination, of the following devices or designs: (i) an on-demand circulation system; (ii) a centrally located water heater; (iii) a point-of-use water heater; (iv) short hot-water pipe runs; (v) small diameter piping; (vi) "instant hot" hot water fixtures; or (vii) super-insulation methods

**5.** A certificate of compliance by a licensed mechanical contractor or plumber that new construction meets the requirements of the SLDC shall be provided.

**6.** Restaurants and caterers shall provide water and other beverages only upon request. This shall be clearly communicated to the customer in at least one of the following manners: (i) on the menu; (ii) by use of a "table tent" or single signage on the table; or (iii) posting in a location clearly visible to all customers.

**7.** Lodging facilities shall not provide a daily linen and towel change for guests staying multiple days unless a guest specifically requests each day that linens and towels be changed.

**8.** Evaporative coolers shall circulate bleed-off water.

**9.** Greywater recycling, if provided, shall reduce the annual amount of water needed for the use, by the amount of the anticipated greywater recycling.

**7.13.11.4. Conservation Signage and Literature Distribution.**

**1.** Public, semi-public, governmental restrooms and public shower facilities shall post not less than one (1) water conservation sign in each restroom and shower facility, the size of which shall not be less than eight and one-half inches (8.5) by eleven (11) inches.

**2.** Hotels, motels and other lodgings shall provide a water conservation informational card or brochure in a visible location in each guest room.

**3.** Retail plant nurseries shall provide each retail customer with low water-use landscape literature and water efficient irrigation guidelines at the time of sale of any perennial plant. In order to facilitate the purchase of low water-use plants, nurseries are strongly encouraged to tag or sign their plants that require little or no supplemental water once established. For the sale of all turf or grass seed or sod, the customer shall be given County provided literature indicating the restrictions to planting water consumptive turf.

**4.** Landscape contractors, maintenance companies and architects shall provide customers with low water-use literature and water efficient irrigation guidelines at the time of contracting. Landscape professionals shall educate their customers regarding the operation of their timed irrigation systems.

**5.** Title companies and others closing real estate transactions shall provide the purchaser with indoor and outdoor conservation literature at the time of closing.

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**6.** County departments shall provide indoor and outdoor conservation literature to all persons applying for a development permit and persons initiating water service. The County shall provide the conservation literature on its internet web site, and shall distribute literature to all entities providing water within the unincorporated areas of the County.

**7.13.11.5. Domestic Well Use Metering Program.**

**1.** Every person engaging in development after the effective date of ~~Ordinance No. 2004-07~~this Code shall participate in the well use metering program.

**2.** Meters shall be installed on wells ~~of all persons subject to Ordinance No. 2004-7 and all persons~~ for any development subject to the SLDC. All meters shall be a Santa Fe County-approved meter. The meter shall be read by the property owner annually within the first two weeks of each calendar year. Meter readings shall be provided to the Administrator no later than April 30 of the same calendar year.

**3.** All properties that are required to report water meter readings as a condition of plat
approval shall have the name and address of the property owner entered into 'the database when the building permit is issued.

**4.** All properties that are required to have water meters shall also be required to test their water meter for reading accuracy every ten (10) years and replace if necessary.

**5.** Failure to submit the meter reading will result in the same penalties as outlined in Chapter 14.

**6.** When water is used in excess of the amount allocated to the property, the first year a letter with educational/informational materials on how to reduce water use will be sent to the water user and they will be required to submit water meter readings every six months to track their progress. All subsequent water usage violations will result in the same penalties as outlined in Chapter 14

**7.13.11.6. Water Waste, Fugitive Water**

**1. Water Waste.** No person, firm, corporation, county, state, federal or municipal facility or operation shall cause or permit to occur any water waste. In general the occurrence of unforeseeable or unpreventable failure or malfunction of plumbing and irrigation system hardware shall not be deemed sufficient grounds for issuance of a citation or other enforcement proceedings unless and until the County issues a formal written notice.

**a.** Water waste means any non-beneficial use of water. Waste includes but is not limited to leaks from indoor and outdoor plumbing systems in excess of 0.25 gallons per minute.

**b.** For unforeseeable or unpreventable outdoor violations, the County shall generally issue a formal warning notice prior to taking enforcement action. Prior to taking formal enforcement action the County may instruct the water user not to operate the faulty system until it is

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appropriately repaired. If operating the system is integral to the operation of the facility the County may at its own discretion provide a period of time in which to remedy the violation prior to commencing formal enforcement action. Once a warning notice or an official citation has been issued for an outdoor occurrence, subsequent water waste events shall be subject to strict enforcement. Strict enforcement may include the issuance of citations and other such activities as the County deems necessary to bring the water user into compliance. For indoor water waste events and for those water waste events outdoors caused by a faulty system which is integral to the operation of the facility, the waste must be abated within 15 calendar days of the issuance of a warning notice or initiation of enforcement action. Enforcement action shall be taken if the waste continues beyond the 15-day period.

**c.** Water waste does not include:

**i.** Flow resulting from fire fighting or other routine inspection of fire hydrants or other training activities,

**ii**. Water applied to abate spills of flammable or otherwise hazardous materials,

**iii.** Water applied to prevent health, safety or accident hazards when' alternate methods are not available,

**iv.** Water that reaches or flows onto adjacent property or public or private right-of-way when caused by vandalism, wind, emergencies or acts of God,

**v.** Flow resulting from a routine inspection or maintenance of a water utility system,

**vi.** Water used by Santa Fe County in the installation, maintenance, repair or replacement of public facilities and structures such as traffic control devices, storm and sanitary sewer structures and road or street improvements,

**vii.** Water used by contractors or utilities including but not limited to saw-cutting and pavement compaction or other use required under terms of their contract,

**viii.** Any water that is discharged as a result of well development or a pumping test.

**2. Fugitive Water.** Fugitive water is prohibited. No person, firm, corporation, county, state, federal, municipal or other governmental facility or operation shall cause of permit the occurrence of fugitive water.

**a.** Fugitive water means the pumping, flow, release, escape or leakage of any water from any pipe, valve, faucet, irrigation system or facility onto any hard surface such that water accumulates as to either create individual puddles in excess of ten (10) square feet in size or cause flow along or off of the hard surface or onto adjacent property or the public

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right-of -way, arroyo, or other water course, natural or manmade. Fugitive water also means, during the irrigation of landscaping, the escape or flow of water away from the landscaping plants being irrigated even if such flow is not onto a hard surface.

**b.** Fugitive water shall not include:

**i.** Incidental run-off caused by vehicle washing provided that a shut-off nozzle is in use,

**ii.** Periodic draining of swimming pools and spas,

**iii.** Storm run-off, including snowmelt run-off,

**iv.** Flowing resulting from temporary water system failures or malfunctions,

**v.** Water applied, such as in the cleaning of hard surfaces, to prevent or abate public health, safety or accident hazards when alternate methods are not available. The washing of outdoor eating areas and sidewalks is not included in this exemption,

**vi.** Flow resulting from vandalism, high winds, emergencies and acts of God, or

**vii.** The occurrence of an unforeseeable or unpreventable failure or malfunction of plumbing or irrigation system hardware, prior to the issuance of a formal warning notice. Once a formal warning notice has been issued, the water user is instructed not to operate the faulty system until it is appropriately repaired, unless operating the system is integral to the operation of the facility. Once a warning notice has been issued, subsequent fugitive water events at the same location will be subject to issuance of citations.

**7.13.11.~~6~~7. Water Harvesting.**

**1. Rainwater Catchment Systems.**

**a.** Rainwater catchment systems are required for all new construction whose roof area is 2,500 square feet or greater. Rainwater catchment systems are required for all remodeling of an existing structure whose roof area, after the remodeling, is 2,500 square feet or greater. Rainwater catchment systems are required of any accessory structure whose roof surface is 500 square feet or greater.

**b.** Systems shall be designed to capture rainwater from a minimum of 85% of the roofed area.

**c.** Structures whose roof surface is 2,500 sq. ft. or greater shall install a cistern that is buried or partially buried and insulated. The cistern shall be connected to a pump and a drip irrigation system to serve landscaped areas. Alternatively, if captured water is to be used for domestic

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purposes, appropriate plumbing and pumps may be used to convey water to the point of use.

**d.** A structure whose roof surface is 2,500 sq. ft. or less, and any accessory structure shall install as its rainwater catchment system: (i) rain barrels, (ii) cisterns, or (iii) passive water harvesting systems using berms, swales, or tree wells. The system shall capture water from at least 85% of the roofed surface.

**e.** Cisterns shall be sized to hold 1.15 gallons per square foot of roof area.

**2. Catchment Requirements, Residential Structures.**

**a.** Systems shall be designed to capture rainwater from a minimum of 85% of the roofed area.

**b.** Structures whose roof surface is 2,500 sq. ft. or greater shall install a cistern that is buried or partially buried and insulated. The cistern shall be connected to a pump and a drip irrigation system to serve landscaped areas. Alternatively, if captured water is to be used for domestic purposes, appropriate plumbing and pumps may be used to convey that water to the point of use.

**c.** A structure whose roof surface is 2,500 sq. ft. or less, and any accessory structure whose roof surface is 500 sq. ft. or greater shall install rain barrels, cisterns or other water catchment system including passive water harvesting and infiltration techniques, berms, swales, and tree wells to capture rainwater from a minimum of 85% of the roofed area.

**d.** Cisterns shall be sized to hold 1.15 gallons per square foot of roof area that is captured.

**3. Catchment Requirements, Non-residential structures:**

**a.** Systems shall be designed to capture rainwater from all of the roofed area.

**b.** Cisterns shall be buried, partially buried or insulated and shall be connected to a pump and a drip irrigation system to serve landscaped areas. Alternatively, if captured water is to be used for domestic purposes, appropriate plumbing and pumps may be used to convey that water to the point of use.

**c.** Cisterns shall be sized to hold 1.5 gallons per square foot of roofed area or the equivalent of a one month supply of water.

## 7.14. ENERGY EFFICIENCY.

**7.14.1. Purpose and Intent**. The standards in this section are intended to accomplish the following:

**7.14.1.1.** To ensure that newly constructed residential and commercial structures

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incorporate cost-effective energy efficiency measures and technologies in order to:

**7.14.1.2.** Conserve natural resources;

**7.14.1.3.** Minimize local, regional and global impacts on the environment from energy extraction and use;

**7.14.1.4** Protect public health;

**7.14.1.5.** Maintain indoor air quality; and

**7.14.1.6.** Keep monthly energy expenditures manageable over the useful life of a structure.

**7.14.2. Residential Structures.**

**7.14.2.1.** Each new residential structure, excluding mobile homes and manufactured homes and structures constructed to the standards prescribed by the State of New Mexico Earthen Building Materials Code and New Mexico Historic Earthen Buildings Code, shall achieve a HERS rating of 70 or less, or have demonstrated that it achieves some equivalent energy performance. Structures required to achieve this rating shall be designed, constructed, tested and certified according to the Home Energy Rating Standards (HERS) index, as most recently adopted by the Residential Energy Services Network (RESNET).

**7.14.2.2** The HERS 70 standard or equivalent shall be certified by a qualified, independent, third-party accredited HERS rater.

**7.14.2.3.** As an alternative to a HERS 70 requirement, other energy efficiency performance measures or methodologies may be utilized to demonstrate compliance with the requirement, provided that:

**1.** The residential structure achieves an equivalent or lower level of energy performance (in BTUs per square foot per year) as a HERS 70 rated structure; and

**2.** A New Mexico licensed engineer, architect or qualified independent building science professional performs the analyses, inspections and certifications.

**7.14.2.4** In addition to the energy performance standard above, new residential structures shall also:

**1.** Comply with the most recent version of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 62.2, "Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings"; and

**2.** Complete the United States Environmental Protection Agency's "Thermal Bypass Inspection Checklist" or "Thermal Enclosure System Rater Checklist" during the building process, as determined by the Checklist's guidelines. The Administrator shall determine which updated version of the checklist, or equivalent, shall be applicable at any given time.

**7.14.2.5.** To demonstrate compliance with these requirements, a preliminary certification

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of energy performance, signed and/or stamped by the independent third party verifier, shall be documented on a form provided or approved by the County and included as a part of the application package submitted for development review. Similarly, compliance with the ventilation and thermal enclosure checklist requirements will be documented by submittal of forms signed by an independent third party verifier.

**7.14.2.6.** Larger multifamily residential structures that are not included under RESNET's HERS index rating system shall comply with the energy efficiency requirements for nonresidential structures in subsection 7.14.3.

**7.14.3. Nonresidential Structures.**

**7.14.3.1.** All new nonresidential buildings shall obtain written confirmation from the United States Environmental Protection Agency that the building is "Designed to Earn the EPA Energy Star Certification". This certification shall be submitted to the County along with the other required materials required to support and application for development approval.

**7.14.3.2.** Nonresidential builders shall, in the actual construction of the structure, to maintain consistency with the energy efficiency elements that resulted in achieving the "Designed to Earn the EPA Energy Star Certification" in order that the building may achieve the EPA Energy Star label during its first few years of operation.

**7.14.4. Reference Material**. A reference document will be available in the Growth Management Department to assist the public with regards to this section to include but not limited to: educational brochures, step-by-step compliance instructions, user-friendly forms, and County staff contact information. These materials shall be available in both hard copy and on the County's web site.

**7.15. OPEN SPACE.**

**7.15.1. Purpose.** It shall be the intent of the County to acquire, preserve and maintain a significant amount of land to support a network of public and private open space, parks and trails throughout the County. New open space and park facilities should be established to match demands of population growth and expansion. Once acquired, the new open space should be protected. This can be accomplished in a variety of ways such as by adopting and maintaining an Official Map; preferentially locating cluster developments; creating new permanently protected private open space in coordination with private landowners, Pueblos, governmental agencies, non-profit entities, and non-governmental agencies; creating and maintaining safe access, parking, and trailheads for public lands and other open spaces; and supporting community-based stewardship of open spaces, trails and public spaces.

**7.15.2. Applicability.** The provisions of this section shall apply to all subdivisions of more than 24 lots (Types I, II and IV), any Planned Development District, and any development within a trail corridor as identified on the Official Map.

**7.15.3. Designation of Open Space and Parks.**

**7.15.3.1. Open space categories.** Open space use shall be categorized as natural and passive or developed.

**1.** Natural and passive open space is set aside for the preservation or conservation of natural areas, wildlife habitat, cultural or archeological resources or other unique characteristics. Passive uses allowed include:

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**a.** access with minimal impacts including pathways or trails;

**b.** way-finding signs and/or interpretive signs; or

**c.** other features of minimal impact.

**2.** Developed open space use includes:

**a.** neighborhood parks;

**b.** community gathering spots;

**c.** recreational play spaces;

**d.** rails;

**e.** picnic shelters;

**f.** community plazas;

**g.** community gardens; and

**h.** parking related to open space requirements.

**7.15.3.2. Allowable open space.** Open Space may include land that is unsuitable for development and offers natural resource benefits such as steep slopes in excess of 25%; conservation areas; natural vegetation; drainage-way or designated wetlands; ravines; surface water management areas; wildlife habitat and corridors; and geologic features. Out-lots and undevelopable or protected lands should be selected on the basis of enhancing the character of the community, buffering, and providing linkages with other areas of significance such as parks, trails or wildlife habitat.

**7.15.3.3. Minimum required open space.**

**1.** Natural and/or passive: Minimum 30% of gross acreage; and

**2.** Developed: 1 acre per 100 population (based on 2.57 persons per dwelling unit). Any proposed subdivision over 24 lots with a population less than 100 shall provide at least one (1) acre of developed open space.

**7.15.3.4. Trail standards.**

**1.** A trail easement shall be dedicated in accordance with the Official Map or adopted plans.

**2.** Trails identified on the Official Map shall be constructed.

**3.** Minimum trail widths for multi-use trails shall meet AASHTO criteria for bicycle facilities, with a thirty (30) foot easement.

**4.** Minimum trail widths for all other trails shall meet US Forest Service Trails Management Handbook (FSH 2309.18) criteria for trail development, with a twenty (20) foot easement.

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**5.** Existing trail alignments may be adjusted to minimize impacts on subdivision design, property use, and safety of residents, and to avoid conflict with existing or proposed roads, driveways, and utility or other special purpose easements. Such adjustments shall be consistent with preservation of the continuity of the trail, safety of the trail users, and the purpose of the trail as determined by the Administrator.

**6.** Surfacing for multi-use trails shall be designed and prepared in accordance with AASHTO criteria for bicycle facilities. .

**7.** Surfacing for all other trails shall be designed and constructed in accordance with the US Forest Service Trails Management Handbook (FSH 2309.18) criteria for trail development.

**7.15.3.5. Dedication, Ownership and Management of Open Space, Parks and Trails.**

**1.** Open space, neighborhood parks and trails shall be established on the Final Plat with provisions for permanent maintenance through dedication to a legally established homeowners' association. Alternatively, at the election of the owner, property may be donated to the County, with the express written consent of the County through dedication on a plat or other instrument. Appropriate parking shall be provided.

**2.** Open space, neighborhood parks and trails shall be described and identified by location, size, use and improvements on the Final Plat prior to dedication to an entity identified for permanent maintenance.

**3.** Homeowners associations or similar legal entities that are responsible for the maintenance and control of common open space and neighborhood parks shall be established.

## 7.16. PROTECTION OF HISTORIC AND ARCHAEOLOGICAL RESOURCES.

**7.16.1. Purpose.** This section is intended to preserve and enhance the historic, archeological and cultural heritage of Santa Fe County. The section defers to the protections established in state and federal law and in particular the Cultural Properties Act and the Historic Districts and Landmarks Act. It also intends to use established statutory tools available to local governments to provide additional protection beyond that which is provided by the State and federal governments. In particular, this section intends to utilize, to the greatest extent possible, the County's inherent police power and zoning authority to provide effective protection for historic and cultural sites that would otherwise go unprotected. This section also is intended to provide for additional investigation on property proposed for development to determine whether undiscovered historic or cultural properties exist, and if properties are discovered, to provide protection of those properties from development.

**7.16.2. Designation of Registered Cultural Properties.** The State of New Mexico, Historic Preservation Division maintains a list of archeological, historic and cultural properties that are deemed worthy of preservation. The list is called the "New Mexico Register of Cultural Properties." The list also includes properties that have been listed on the National Register of Historic Places of the National Park Service. Whenever in the SLDC reference is made to the list of Registered Cultural Properties, that reference shall refer to the most current list maintained by the State of New Mexico, Department of Cultural Affairs.

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**7.16.3. Development Affecting a Registered Cultural Property – Required Report.**

**7.16.3.1.** Development that proposes to remove, demolish or adversely affect a property listed on the new Mexico Register of Cultural Properties and/or the National ~~r~~Register of historic Places is not permitted unless the applicant first obtains a beneficial use and value determination pursuant to subsection 14.9.8 of the SLDC, a copy of an excavation permit issued pursuant to 4.10.14 New Mexico Administrative Code by the State Cultural Properties Review Committee with approvals from the State Archaeologist and the State Historic Preservation Officer is also required for any mechanical excavation of an archaeological site on private land.

**7.16.3.2.** Development that affects in any way a Registered Cultural Property (including any removal or demolishing pursuant to the previous paragraph) is not permitted unless the applicant first submits a report concerning the proposed development for review of the Historic Preservation Office, Historic Preservation Officer. The report shall describe in detail the proposed changes to the Registered Cultural Property. Such a report shall be prepared by a professional qualified under § 7.16.8 of this subsection. The report shall include a complete treatment plan for protection and preservation of the Registered Cultural Property, shall contain at least as much information as is listed in Section 4.10.16.14 New Mexico Administrative Code ("Preliminary Reports") and shall meet the requirements of Section 4.10.7 New Mexico Administrative Code imposing general standards. The treatment plan shall be reviewed by the New Mexico State Historic Preservation Office, Historic Preservation Officer and conditions on the development proposed by the State Historic Preservation Officer may, as appropriate, be incorporated into the development permit.

**7.16.3.3.** Any development affecting in any way a Registered Cultural Property requires a conditional use permit.

**7.16.4. Designation of Archeological Districts.** The County is hereby divided into three districts for purposes of determining the level of investigation, mitigation and treatment required for archeological resources for persons engaging in development within those districts. The three archeological districts are created in Appendix D. Each district corresponds to areas of high," "medium," and "low" potential for discovery of heretofore undiscovered archeological resources.

**7.16.4.1.** On March 19, 2004, Congress enacted Public Law 108-208 as the Galisteo Basin Archaeological Sites Protection Act ("the Act"), Section 2 of which stated that its purpose was "to provide for the preservation, protection, and interpretation of the nationally significant archeological resources in the Galisteo Basin in New Mexico." The Act found the Galisteo Basin to be "the location of many well preserved prehistoric and historic archeological resources of Native American and Spanish colonial cultures." Further, that "these resources included the largest ruins of Pueblo Indian settlement in the United States, spectacular examples of Native American rock art, and ruins of Spanish colonial settlements…[all of which] are being threatened by natural causes, urban development, vandalism, and uncontrolled excavations."

**7.16.4.2.** The Act designated some 24 specific sites, comprising 4,591 total acres, as constituting the Galisteo Basin Archaeological Protection Sites. The 24 designated sites are subject to change. Those current sites consist of: Arroyo Hondo Pueblo, Burn Corn Pueblo, Chamisa Locita Pueblo, Comanche Gap Petroglyphs, Espinoso Ridge Site, La Cienega Pueblo & Petroglyphs, La Cienega Pithouse Village, La Cieneguilla Petroglyphs/Camino Real Site, La Cieneguilla Pueblo, Lamy Pueblo, Lamy Junction Site,

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Las Huertas, Pa'ako Pueblo, Petroglyph Hill, Pueblo Blanco, Pueblo Colorado, Pueblo Galisteo/Las Madres, Pueblo Largo, Pueblo She, Rote Chert Quarry, San Cristobal Pueblo, San Lazaro Pueblo, San Marcos Pueblo, and Upper Arroyo Hondo Pueblo. Section 3 of the Act permits any private property owner included within the boundary of the designated site upon written request to the Secretary of the Interior, to have their property immediately removed from within that boundary. Section 4 of the Act prohibits additions to or deletions from the listed sites except by an act of Congress.

**7.16.4.3.** Section 2 of the Act protects the archeological protection sites by restricting activity on any Federal lands within the sites including but not limited to disposal of lands, mining activity and mineral/geothermal leasing. The Act authorizes the Secretary of the Interior to enter into cooperative agreements with owners of non-Federal lands as to an archaeological protection site located on their property. Such an agreement would enable the Secretary to assist with the protection, preservation, maintenance, and administration of the archaeological resources and associated lands. Section 5 of the Act prohibits the Secretary from administering archaeological protection sites which are on non-Federal lands unless the landowner consents in a cooperative agreement.

**7.16.4.4.** The Act specifically prohibits the regulation of privately owned lands located within archeological protection sites and permits the Department of Interior to only acquire lands or interests within the protected sites with the consent of the owner. Similarly, Section 18-6-10 of the Cultural Properties Act deems it "an act of trespass and a misdemeanor for any person to remove, injure or destroy registered cultural properties situated on private lands or controlled by a private owner without the owner's prior permission." Also, under the state law, if a cultural property is on private land and the State Cultural Properties Review Committee determines that cultural property to be worthy of preservation and inclusion on the official register of cultural property, "the Committee may recommend the procedure best calculated to ensure preservation." The procedures include providing technical assistance to the owner to preserve the cultural property, acquiring the property outright or acquiring an easement, advising the County to consider zoning the property as an historic area/district under the Historic District Act, advising the County of the tools available to obtain control of the cultural property under the Historic District Act, and acquiring the property for the State by use of eminent domain.

**7.16.5. Development Within Areas of High Potential for Discovery of Archeological Resources; Required Investigation, Treatment and Mitigation.**

**7.16.5.1.** Any proposed development of a (i) non-residential use, (ii) a multi-family use, or (iii) any division or subdivision of land encompassing 5.0 acres or more within an area of "high" potential, or 2.0 acres within a traditional community and any application for small scale sand and gravel extraction, or a DCI ~~and~~ in a "high" potential for discovery of archeological resources on Map 7-1, shall first investigate the property for archeological resources and shall preserve, mitigate, or treat the archeological resources as specified herein before a development permit is issued.

**7.16.5.2.** The investigation referred to in the previous paragraph shall include documentary research through the Archeological Records Management Section ~~ystem~~ (ARMS) of the State of New Mexico, Historic Preservation Division, records maintained by the federal Bureau of Land Management, and any other known documentary sources (such as those held by the University of New Mexico), to determine whether known archeological resources exist at the site.

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**7.16.5.3.** The investigation referred to in the previous paragraphs shall have as its goal to determine in a definitive manner whether known archeological resources exist. If known archeological resources exist on the site, they shall be confirmed through direct field investigation conducted by a qualified professional under § 7.16.8.

**7.16.5.4.** If, as a result of the documentary investigation and any follow-up field investigation, archeological resources are verified to exist on the property, a treatment and mitigation plan shall be developed whose primary goal is preservation of the archeological resources. If preservation is not practicable, then a treatment and mitigation plan shall be prepared and incorporated into the report as described in the following paragraphs.

**7.16.5.5.** Notwithstanding the foregoing, a pedestrian survey of the property proposed for development to which this subsection applies shall be conducted by a qualified professional under § 7.16.8 for all properties to which this subsection applies. The pedestrian survey shall be consistent with the requirements for such surveys set forth in 4.10.15 NMAC ("Standards for Survey"). If the qualified professional determines that archeological resources may be present, shovel tests or other subsurface testing shall be performed.

**7.16.5.6.** The investigation referred to in the previous paragraphs shall culminate in the preparation of a detailed report concerning the investigation which shall, at a minimum, contain all of the following. The report shall be forwarded to SHPO for review and comment:

**1.** a map of the proposed development that includes the buildable area and all areas proposed to be disturbed and that also shows the location of any archeological resources or sites investigated as a result of the documentary and pedestrian survey and any property listed on the Register of Cultural Properties;

**2.** a description of all archeological resources that were found during the investigation;

**3.** a brief description of human occupation and land use in the vicinity of the proposed development;

**4.** a complete list of sources consulted during the investigation;

**5.** a site map of the proposed development and environs that includes depiction of the archeological sites found and that depicts all the field work completed;

**6.** photographs of all archeological resources investigated;

**7.** copies of each site inventory and activity form completed on the site;

**8.** an overview of previous work and findings from the site of the proposed development and nearby sites;

**9.** an assessment of the impact of the proposed development on the archeological remains found at the site;

**10.** any archeological resources identified in the report, categorized as either (a) not significant and no treatment is necessary, (b) significant, but that the proposed development will not affect the resources or can avoid the resources

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with careful placement, (c) significant, but that the resources can be effectively treated, or (d) that the archeological or cultural resources are significant, cannot be avoided, and treatment is not feasible;

**11.** a proposed treatment and mitigation plan that, if prepared, provides details concerning the means to undertake recovery and preservation of the archeological resources.

**7.16.5.7.** If the report referred in the previous paragraph proposes a treatment plan, the treatment plan shall be carried out as a condition precedent to obtaining a development permit. The treatment of the archeological resources shall continue until no archeological resources are encountered. As an alternative to carrying out a treatment plan prior to issuance of a development permit, the Administrator may accept financial assurance for the completion of the treatment plan and issue a development permit conditioned upon completion of the treatment plan.

**7.16.5.8.** If archeological resources are found, the resources shall be tested and analyzed during the field investigation, and quantitative and qualitative summaries of the archeological remains shall be provided in the report.

**7.16.5.9.** Archeological resources which are identified as significant as a result of the investigation shall be avoided and permanently protected by a non-disturbance easement, or mitigated and treated. The property on which archeological resources are located may be voluntarily transferred or sold to a federal, State or County government for further protection as an alternative to protection by a non-disturbance easement.

**7.16.5.10.** For those resources determined to be significant under the previous paragraph and for which a treatment plan is recommended, a sample of surface artifacts shall be collected and documented, and if there is any reason to believe that subsurface resources exist, excavations shall be conducted according to the most current standards of the Historic Preservation Officer set forth in Section 4.10.16 NMAC ("~~standards for~~ Standards for Excavation and test Excavation ~~and Test Excavation~~").

**7.16.5.11.** In consultation with the State Historic Preservation Officer, the Administrator may determine that an investigation is not required for areas where cultural resources have been destroyed by previous development.

**7.16.5.12.** The total cost of treatment shall not exceed ten percent (10%) of the total cost of development of the applied-for development, including all future phases. If future phases are not planned sufficiently to determine ~~development~~ total development costs, then development of future phases consistent with the applied-for development shall be assumed. ~~To the extent that~~Where the cost of treatment exceeds ten percent of development costs, treatment shall be completed up to the ten percent limit~~extent that funds do not exceed ten percent of the costs of development~~. If treatment is incomplete, the applicant shall contact the State Historic Preservation Officer and the County's Open Space and Trails Division for additional funds, if available, to complete the treatment. Only if such requests are denied may the treatment plan be terminated and a development permit issued.

**7.16.5.13.** If an applicant does not agree with the findings and a proposed treatment plan, the applicant may consult with another qualified professional to review the findings and treatment plan and render a second opinion. If, after the second opinion, the applicant still does not agree, the applicant may request an opinion from the State of New Mexico, State Historic Preservation Officer. The opinion of the State Historic Officer shall be

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final.

**7.16.6. Development Within Areas of Medium Potential for Discovery of Archeological Resources, Required Investigation; Treatment and Mitigation.**

**7.16.6.1.** Any proposed development of a (i) non-residential use, (ii) a multi-family use, or (iii) any division or subdivision of land encompassing 10.0 acres or more and any application for small scale sand and gravel extraction, or a DCI, within an area of "medium" potential for discovery of archeological resources on Map 7-1, shall first investigate the property for archeological resources, and shall preserve, mitigate, or treat the archeological resources as specified herein before making application for a development permit.

**7.16.6.2.** The investigation, treatment and mitigation required in the previous paragraph shall encompass all the items described in subsections 7.16.5.2. through 7.16.5.13.

**7.16.7. Development Within Areas of Low Potential for Discovery of Archeological Resources, Required Investigation; Treatment and Mitigation.**

**7.16.7.1.** Any proposed development of a (i) non-residential use, (ii) a multi-family use, or (iii) any division or subdivision of land encompassing 40.0 acres or more and any application for small scale sand and gravel extraction, or a DCI, within an area of "low" potential for discovery of archeological resources on Map 7-1, shall first investigate the property for archeological resources, and shall preserve, mitigate, or treat the archeological resources as specified herein before making application for a development permit.

**7.16.7.2.** The investigation, treatment and mitigation required in the previous paragraph shall encompass all the items described in subsections 7.16.5.2. through 7.16.5.13.

**7.16.8. Professional Qualifications.** Where an investigation called for in this subsection requires a qualified professional, that investigation shall be conducted by a professional archeologist, anthropologist or historian qualified and approved by the State of New Mexico Cultural Affairs Division, Historic Preservation ~~Officer to conduct archeological surveys on State lands, who shall also be approved by~~and the Administrator.

**7.16.9. Unexpected Discoveries.** Any unexpected discoveries of archeological or cultural resources during construction, whether investigated or not pursuant to the SLDC, shall be immediately reported to the Administrator. Absent further instructions from the Administrator, construction activities shall immediately cease. The Applicant shall be responsible for having a person qualified pursuant to this section conduct an investigation of the site within forty-eight (48) hours to investigate, prepare a report, treat and mitigate the site as necessary and as described in subsection 7.16.5. The Administrator may only issue a permit authorizing construction to continue when all the items set forth in subsections 7.16.5.2. through 7.16.5.13 have been accomplished and approved by the Administrator,

**7.16.10. Unexpected Discoveries of Human Remains.** An unexpected discovery of human remains invokes duties under Section 18-6-11.2 of the Cultural Properties Act ~~State Law~~. Any such discovery shall be immediately reported to local law enforcement and the Administrator ~~and to the Office of the Medical Investigator immediately~~. All construction activities shall cease until the Medical Investigator has cleared further work.

**7.16.11. Tribal Notification.** Each investigation completed pursuant to this section shall be treated as a public record except as provided in NMSA 1978, Section 18-6-11.1, and mailed to

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any Tribal government within Santa Fe County that has made a written request of the Administrator for such information.

**7.16.12. Excavating an Archaeological Site on Private Land Using Mechanical Excavation Equipment.** Pursuant to Section 18-6-11 of the Cultural Properties Act, no person shall excavate an archaeological site located on private land in the State with the use of mechanical earthmoving equipment unless the person obtains a permit issued by the State Cultural Properties Review Committee with approvals from the State Archaeologist and the State Historic Preservation Officer. This requirement shall not apply to the private landowner unless the landowner transfers the property with the intent to excavate an archaeological site.

## 7.17. TERRAIN MANAGEMENT.

**7.17.1. Purposes.** This section is intended to:

**7.17.1.1.** Protect water quality and the natural character of the land;

**7.17.1.2.** Minimize soil and slope instability, erosion, sedimentation and storm water runoff;

**7.17.1.3.** Protect and retain rugged and steep terrain, natural landmarks and prominent natural features as open space;

**7.17.1.4.** Adapt development to the existing natural topography, soils, vegetation, geology, hydrology, landforms and other conditions existing on a lot or parcel prior to development by:

**1.** Proper vegetation management techniques;

**2.** Minimizing cuts and fills and earth grading;

**3.** Blending graded areas with undisturbed natural terrain; and

**4.** Minimizing the amount of exposed raw earth at any time in a project by careful phasing of development and revegetation;

**7.17.1.5.** Preserve natural drainage patterns and recharge groundwater protect the public from the natural hazards of flooding, erosion and landslides;

**7.17.1.6.** Encourage minimum disturbance to the natural areas of a site by;

**7.17.1.7.** Appropriately locate roads, driveways and utilities so as to minimize unsightly cut and fill areas, and scarring; and

**7.17.1.8.** Provide passive irrigation of landscaped areas.

**7.17.2. Applicability.** All development shall comply with the standards of this subsection.

**7.17.3. Buildable Area.**

**7.17.3.1.** Development shall occur only within the area designated for building on the final plat. If there is no buildable area designated on the plat, then the Administrator shall designate a buildable area upon request.

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**7.17.3.2.** A buildable area shall include the footprint of the proposed structure, a working area extending thirty feet from the structure, and any areas of expected site disturbance necessary for construction, all of which shall not be less than 2,000 square feet.

**7.17.4. No Build Areas.** No build areas shall be identified on any plat and on any site development plan. No build areas shall include:

**7.17.4.1.** Rock outcropping, wetlands, riparian areas, arroyos and natural drainage ways;

**7.17.4.2.** Setbacks from ridge tops and ridges, natural streams and drainage ways; and

**7.17.4.3.** Areas with natural slopes of thirty (30) percent or greater.

**7.17.5. Storm Drainage and Erosion Control.**

**7.17.5.1. General.**

**1.** No fill shall be placed in natural drainage channels and a minimum setback of twenty five feet shall be maintained from the natural edge of all streams, rivers, or arroyos with flows exceeding twenty-five (25) cubic feet per second during a one hundred (100) year frequency storm, twenty-four (24) hour duration;

**2.** Any area of periodic flooding shall be identified as a no build area and shall be included within a drainage easement; and

**3.** Any ponding areas used in drainage control facilities shall be revegetated and integrated into landscaping.

**7.17.5.2. All Other Development**. Subdivision, multi family, non-residential and single family residential development shall comply with the following standards:

**1.** Drainage structures shall be designed and sized to detain or safely retain storm water on site.

**2.** Storm drainage facilities shall have the sufficient carrying capacity to accept peak discharge runoff from the development;

**3.** The peak discharge of storm water resulting from the development shall not exceed the peak discharge calculated prior to the development and differences between pre- and post-development discharge shall be detained or retained on site. Calculation of the design peak discharge of storm water shall be based on a one hundred (100) year frequency, twenty-four (24) hour duration rainstorm;

**4.** No development shall disturb any existing watercourse or other natural drainage system, in a manner which causes a change in watercourse capacity or time to peak, time of concentration or lag time or other natural drainage system or increase of the pre-development stormwater discharge .

**5.** All natural drainage ways and arroyos which traverse or affect one or more lots or development sites shall be identified on the plan and/or plat.

**6.** Erosion setbacks shall be provided for structures adjacent to natural arroyos, channels, or streams such that: (a) a minimum setback of 25' shall be provided

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from all arroyos with flow rates of 100 cubic feet per second (100 cfs); or (b) a minimum setback of 75' shall be provided from all FEMA designated 100 year Floodplains. Setbacks from FEMA designated Floodplains may be reduced if bank stabilization or stream bed and bank stability is designed or provided by a professional engineer. In no case shall the setback be reduced to less than 25'.

**7.** For single-family residences, where a proposed development site is located outside of a regulated one hundred (100) year flood plain and on slopes less than ten percent (10%) and the proposed development site, including patios, garages, accessory structures, driveways and other development that decreases the permeability of infiltration of pre-development surfaces is no more than six thousand (6,000) square feet and total impermeable surfaces (roofs, paved areas, patios, etc.) do not exceed twenty-five hundred (2,500) square feet, a retention/detention pond(s) or checkdams(s) with a minimum volume of six hundred (600) cubic feet shall be installed at a location to be approved by the Code Administrator. Such ponds shall be integrated with the landscaping or revegatation on the lot.

**7.17.6 Grading, Clearing and Grubbing.**

**7.17.6.1.** Prior to engaging in any grading, clearing or grubbing, a development permit shall be obtained. A development permit is not required to maintain a driveway or road; provided, however, that any major change in the driveway or road or a capital improvement to a road or driveway, shall require a development permit.

**7.17.6.2.** Grading and clearing of existing native vegetation shall be limited to approved Buildable Areas, road or driveways, drainage facilities, liquid waste systems, and utility corridors.

**7.17.6.3**. Topsoil from graded areas shall be stockpiled for use in revegetation.

**7.17.6.4.** The boundaries of the development area shall be clearly marked on the site with limits of disturbance (LOD) fencing or construction barriers prior to any grading or clearing.

**7.17.6.5.** No grading is permitted within one foot of a property line, except for roads driveways and utilities.

**7.17.6.6.** Temporary fencing shall be installed to protect natural vegetation.

**7.17.7. Restoration of Disturbed Areas.**

**7.17.7.1.** Disturbed areas not stabilized by landscaping shall be permanently revegetated to approximate the density and species or vegetation at the site prior to grading.

**7.17.7.2.** Abrupt angular transitions and linear slopes shall be stabilized.

**7.17.7.3.** All structures except retaining walls or soil stabilization improvements shall be set back from the crest of fills or the base of cuts for a minimum distance equal to the depth of the fill or the height of the cut, unless a structurally sound retaining wall is built for the cut or fill slope. Retaining walls may be part of a building.

**7.17.8.** [Reserved]

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### 7.17.9 Steep Slopes, Ridge tops, Ridgelines and Shoulders.

**7.17.9.1 Applicability.** This subsection applies to development of any structure on a slope whose grade exceeds fifteen percent (15%), areas where slope exceeds thirty percent (30%) and to a ridge, ridge top, ridgeline or shoulder.

**7.17.9.2 Standards.**

**1.** No structure may be constructed on a ridge top, ridgeline or shoulder unless there is no other buildable area on the property. Only single story structures are allowed on ridges, ridge tops and shoulders.

**2.** A buildable areas on a ridge top, ridgeline or shoulder shall be set back 50 feet from the shoulder. The shoulder is the point at which the profile of the upper slope begins to change to form the slope.

**3.** No structure may be constructed on a natural slope of thirty percent (30%) or greater.

**4.** Utilities and access roads and driveways may be located on a natural slope in excess of thirty percent (30%) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each. Drainage structures and slope retention structures may be located on a natural slope in excess of thirty percent (30%).

**5.** No structure may be constructed on a slope where evidence exists of instability, rock falls, landslides, or other natural or man-made hazards.

**6.** The finished floor elevation of any structure built on a natural slope between fifteen percent (15%) and thirty percent (30%) shall not exceed five feet above the natural grade at any point.

**7.** No significant tree may be removed from slopes greater than thirty (30) percent.

**7.17.9.3 Height.**

**1.** The height of any structure located on land that has a natural slope of fifteen percent (15%) or greater shall not exceed eighteen feet (18'). The distance between the highest point of the structure and the lowest point at the natural grade or finished cut shall not exceed thirty (30) feet, unless the portion of the slope over fifteen percent (15%) is incidental to the entire site.

**Figure 7.6: Height of Structures in Steep Slope Areas.**

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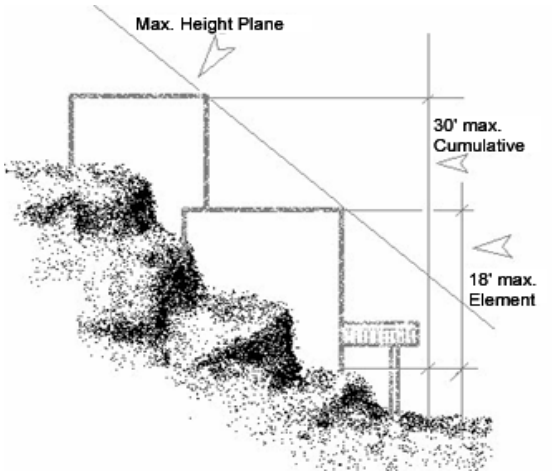


**2.** Structures on ridges, and ridgelines and shoulders shall not exceed fourteen (14) feet in height and shall be limited to one story. However, a structure on a ridge or ridgeline that is a one story pitched roof structure shall not exceed eighteen (18) feet in height so long as the structure is screened from view from an arterial or major arterial road.

**7.17.9.4. Architectural and Appearance Standards.**

**1.** A Structure located on a slope in excess of fifteen percent (15%) shall be designed to conform to the natural terrain by following contours to minimize cuts and fills, fitting into existing landforms and solidly meeting the ground plane. Any pier foundations shall be enclosed so that exterior walls appear to meet the ground and such a foundation system shall not exceed five vertical feet above the natural grade.

**2.** Buildings should be designed within variations in height and orientation, and within offset walls to reduce the visible mass or bulk.

**3.** Roof colors, windows, walls and facade colors visible from adjacent properties or from arterial or collector roads shall be muted and of non-reflective or non-glossy materials with a Light Reflective Value (LRV) of less than 40 pursuant to manufacturers specifications.

**4.** Landscaping shall be provided for cut and fill slopes greater than four feet. Landscape shall be provided for the facade of buildings located on ridge tops or 15 percent slopes or greater that are visible from arterial or collector roads. A minimum of 50 percent of the visible portion of a cut and fill slope and facade shall be landscaped. Trees shall be planted or retained within 15 feet of all retaining walls to be screened and in an area no less than 25 feet and no more than 50 feet from any facade to be screened. In the event of a conflict between the requirements of this paragraph and the Santa Fe County Urban Wildland Interface Code on a particular property, screening shall be provided, but at a distance consistent with the requirements of Urban Wildland Interface Code. If the lot size does not permit compliance with both the requirements of this paragraph and the Urban-Wildland Interface Code, the latter shall apply.

**7.17.10. Development at or above 7400 Feet.** Development at or above an elevation of 7400 feet will be subject to additional requirements.

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**7.17.10.1 Buildable Area Analysis**. Each lot or parcel shall be analyzed for buildable areas which must satisfy each of the following criteria that:

**1.** the average slope of the buildable area is less than twenty percent (20%), except that only fifty percent (50%) of any structure may be located on slope that is between twenty and thirty percent (20% and 30%);

**2.** soils within the area are acceptable for construction of foundations; and

**3.** the buildable area be closest to the nearest pre-existing public or private roadway or right-of-way, unless the resulting location of the buildable area would make the development in the area visible from the nearest major arterial road or unless such siting of the buildable area would not conform to the purposes, development criteria and design standards of this Section 7.17;

**7.17.10.2. Visual Impact Analysis.** Each proposed development site within a buildable area shall be subject to a visual impact analysis that will indicate whether such structures will be visible from a major arterial road. Such visual impact analysis shall include:

**1.** Erection of white story poles on each and every corner and, if applicable, on the pitch of any proposed structure on the site proposed for development. Story poles shall be consistent with the height of the proposed structure.

**2.** Photographs, using a telephoto lens or other technique that is adequate to establish a viewline and that adjusts for distances, or computer simulations taken from the nearest applicable major arterial road where a view of the site is possible.

**3.** Viewpoints shall be approved by the Administrator prior to the analysis, and additional viewpoints may be selected by the Administrator if the additional viewpoints would provide greater visual perspective on the proposed development site.

**4. Sites that are visible.** Where it is determined that the proposed development site is visible from a major arterial road, then the following alternatives shall be considered:

**a.** Selection of a less visible or non-visible development site;

**b.** Consolidation and/or adjustment of lot lines, relocation of buildable areas, and/or realignment of proposed roads and driveways.

**c.** Use of additional screening, buffering or setbacks.

**7.17.10.3 Disturbed Area Limitation.**

**1.** The disturbed area on any lot shall not exceed twelve thousand (12,000) square feet. The location and calculation of the disturbed area on the lot shall be identified on the site development plan.

**2.** All construction staging areas shall be fenced prior to construction to prevent damage to all areas that are not designated as the disturbed area on a lot.

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**3.** Utility corridors, septic leach fields, construction staging areas and any other portion of the designated disturbed area that is not occupied by improvements shall be revegetated.

**4.** Walls or fences shall be included in calculating disturbed area when such walls or fences are impermeable with respect to overland sheet flow of water or would inhibit water infiltration.

**7.17.10.4 Roads and driveways.**

**1.** Roads and driveways shall not be designed or constructed on slopes of over twenty-five percent (25%).

**2.** Exceptions may be approved by the Administrator for roads and driveways proposed to cross slopes greater than twenty five percent (25%) that disturb no more than three (3) isolated occurrences of up to one thousand (1000) square feet each, provided the applicant demonstrates that crossing such slopes has minimal impact to terrain or to visual quality and otherwise would conform to the purposes, design criteria and development standards set forth in this Section 7.17.

**7.17.10.5 Architectural and Appearance Standards**

**1.** Window and door glazing shall be limited to no more than thirty percent (30%) of a facade, except:

**a.** glazing shall be limited to no more than fifty percent (50%) under portals eight feet (8') or deeper.

**b.** Glazing shall be non-mirrored and the LRV shall be less than twenty percent (20%).

**7.17.10.6 Setbacks.** Setbacks shall be no less than one hundred feet (100') from a ridge, ridgetop, ridgeline or shoulder unless it can be demonstrated to the Administrator after a field inspection, that structures are non-visible from applicable public rights of way.

**7.17.10.7 Screening Requirements.**

**1.** The facade of any structure taller than four feet (4'), including retaining walls, which is visible from any public right-of-way shall be screened with appropriate shrubs or trees. New plants shall be the same as or similar to existing, indigenous trees on the site.

**2.** Screening requirements shall be coordinated with fire safety zones.

**3.** Trees used for required screening structures shall be a minimum of six feet (6') tall and one and one-half inch (1.5") caliper at the time of planting. In addition, fifty percent (50%) of required new shrubs shall be of a minimum size of five (5) gallons at the time of planting.

**4.** Except as otherwise required for screening purposes or fire safety zones, new vegetation shall be planted at commensurate density to that on the site prior to development.

**5.** Except as set forth below, all cut and fill slopes and retaining walls more than

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four feet (4') high and with a grade of 3:1 or more shall have screening vegetation planted and maintained at the base of the slope. However, those with a grade of less than 3:1 shall have screening vegetation planted and maintained on the entire cut or fill slope as follows:

**a.** Screening vegetation shall be planted and maintained in addition to all revegetation required elsewhere in this Code, and shall be indigenous evergreen trees characteristic of the immediately adjacent area. No trees are required for solid rock terrain.

**b.** All trees shall be a minimum of six feet (6') high at the time of planting, and shall be planted and maintained at a similar density to the adjacent existing natural landscape. The landscaping density shall be determined by an inventory of existing natural trees of four feet (4') or greater in height in a fifty by fifty foot (50' x 50') square within the cut or fill area prior to excavation. The inventory of the existing natural trees within the cut and fill area shall be shown on the landscape plan.

**c.** Existing indigenous evergreen trees over six feet (6') high and located within four feet (4') of the base of the cut and fill slope may be counted toward fulfilling the number of trees required for screening.

**d.** Cut slopes with a slope or retaining wall closer than six feet (6') from the edge of a road or driveway may be screened with a trellis supporting planted vegetation.

**6.** Where any structure is greater than eight feet (8') high but no more than fourteen feet (14') high, there shall be at least one (1) indigenous evergreen tree such that no more than fifty percent (50%) of the structure is exposed from the highest point on the structure to the top of the tree. Where any structure is greater than fourteen feet (14') high, there shall be at least one (1) indigenous evergreen tree of at least eight feet (8') in height, which shall be located not more than fifteen feet (15') from the structure. The result must meet the objective of breaking up both the vertical and horizontal mass of the structure. The tree or shrub, at maturity, shall be a few feet higher than the structure.

**7.** There shall be at least one tree existing or planted of at least six feet (6') in height for every fifteen linear feet (15') of horizontal wall of each structure which shall be located not more than fifteen feet (15') from such wall.

**8.** No retaining walls shall be greater than five feet (5') in height. When retainage greater than five feet (5') is required, multiple retaining walls shall be used, which must be set back a minimum of six horizontal feet (6') from face of wall to face of wall. Setback area grading shall not exceed a one percent (1%) cross slope and all walls shall be screened in accordance with subsection 7.17.10.7 above.

**9.** The landscaping requirements set forth in this subsection shall be in addition to all other landscaping requirements in Section 7.6.

**7.17.10.8. Lighting Design Standards.**

**1.** Use of cut off or shielded luminaires is required. All light sources or bulbs shall be shielded so they are not visible from any adjacent lot or public roadway

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and so that no light rays are emitted by the installed fixture at angles above the horizontal plane. All outdoor lighting fixtures shall meet the requirements for lamp type and shielding set forth in Section 7.8.

**2.** Spillover of lighting of any type onto adjacent property is prohibited.

**3.** No light fixture or mounting device shall be higher than the buildings on a parcel.

**4.** Ground-mounted luminaires for pedestrian or parking areas are limited to height of three feet (3').

**5.** Flood lights to enhance architectural features of a building or garden areas at night are prohibited.

**6.** Decorative lamps shielding low watt incandescent, low pressure sodium or other energy efficient light sources for walls under portals are permitted.

**7.** Spotlights, mercury vapor and halogen security lights are prohibited.

**8.** Automatic timing devices may be required to turn off lighting at specified hours.

**9.** A range of lighting design solutions for the various aspects of a development shall be considered over a single lighting solution.

**10.** Where the installation of street lights is required for reasons of safety or convenience, standards for street lights are set forth in subsection 7.8.4, and are incorporated by reference herein.

**11.** No new lighting shall be used or installed that is visible from a major arterial when illuminated.

**12.** The lighting requirements set forth in this subsection shall be in addition to all other lighting requirements in Section 7.8 of this Code.

**7.17.11. Development at or above 7800 Feet in Elevation.** Development at or above an elevation of 7800 feet is a restricted build area and will be subject to additional requirements as follows:

**1.** Proposed development in this area shall not be visible from major arterial roads.

**2.** Proposed development in this area is subject to a conditional use permit.

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## 7.18. FLOOD PREVENTION AND FLOOD CONTROL.

**7.18.1. Statutory Authorization.** NMSA 1978 Section 3-18-7(D), establishes that a county with areas designated by FEMA and the county as flood-prone shall participate in the National Flood Insurance Program ("NFIP"). The requirements for participation in the NFIP are included in Title 44 CFR (National Flood Insurance Program Regulations) and form the basis for regulation under this section.

**7.18.2. Purpose.** The purpose of this section is to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by adopting provisions designed to:

**7.18.2.1.** protect human life and health;

**7.18.2.2.** minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

**7.18.2.3.** minimize damage to critical facilities, infrastructure and public facilities such as water and sewer mains, electric and communications facilities, and roads and bridges located in floodplains;

**7.18.2.4.** minimize prolonged business interruptions;

**7.18.2.5.** 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;

**7.18.2.6.** regulate the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

**7.18.2.7.** regulate filling, grading, dredging and other development that may increase flood damage;

**7.18.2.8.** restrict alteration or substantial improvements to existing structures located within the floodplain;

**7.18.2.9.** prevent increases in flood heights that could increase flood damage;

**7.18.2.10.** ensure that potential purchasers are informed that property is located in a flood hazard area; and

**7.18.2.11.** minimize expenditure of public money for costly flood control projects.

**7.18.3. Methods of Reducing Flood Losses.** In order to accomplish these purposes, the SLDC uses the following methods to guard against or reduce losses resulting from flooding:

**7.18.3.1.** restrict or prohibit uses that are dangerous to the health, safety, welfare or property in times of flooding, or that increase flood heights or velocities;

**7.18.3.2.** require that uses that are vulnerable to floods, including facilities serving such uses, be protected against flood damage at the time of initial construction;

**7.18.3.3.** control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

**7.18.3.4.** control filling, grading, dredging and other development that may increase flood damage; and

**7.18.3.5.** prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards, flood heights or flood velocities on other lands.

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**7.18.4. Applicability.**

**7.18.4.1. Generally.** This section applies to all designated Special Flood Hazard Areas within the County.

**7.18.4.2. Interpretation of Map Boundaries.** Where interpretation of the boundaries of a Special Flood Hazard Area shown on the effective Flood Insurance Rate Map for Santa Fe County is needed, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, and there is an appeal of the decision of the Floodplain Administrator, the Planning Commission shall make the final determination.

**7.18.4.3. Abrogation and Greater Restrictions.** This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the terms of this section and another ordinance, easement, covenant, plat restriction or condition or deed restriction conflicts with the terms of this section, whichever imposes the more stringent restriction shall prevail, notwithstanding anything to the contrary herein.

**7.18.5. Basis for Establishing Special Flood Hazard Areas.** The Special Flood Hazard Areas (“SFHAs”) identified by FEMA in a scientific and engineering report entitled "The Flood Insurance Study for Santa Fe County, New Mexico and Incorporated Areas," effective December 4, 2012 ("FIS"), with accompanying Flood Insurance Rate Maps ("FIRM") and/or Flood Boundary Floodway Maps ("FBFM") and any revisions thereto, are hereby adopted by reference and declared to be a part of the SLDC. These Special SFHAs identified by the FIS and attendant mapping are the minimum area of applicability of the SLDC and may be supplemented by subsequently conducted studies designated and approved as set forth herein. The Floodplain Administrator shall keep a copy of the FIS, FIRMs and/or FBFMs on file and available for public inspection during normal business hours.

**7.18.6. Warning and Disclaimer of Liability.** The degree of flood protection required by the SLDC is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. The SLDC does not, and shall not, be interpreted to provide that land lying outside of a SFHA or uses permitted within such areas will be free from flooding or flood damages. The SLDC shall not create liability on the part of the County or any official or employee thereof for any flood damage that may result from compliance with the terms of the SLDC or any administrative decision lawfully made hereunder.

**7.18.7. Administration.**

**7.18.7.1. Designation of Floodplain Administrator.** The Administrator is appointed the Floodplain Administrator to administer and implement this section of the SLDC and other appropriate sections of Title 44 CFR (National Flood Insurance Program Regulations). The Administrator shall appoint a person under the Administrator's supervision to be the Certified Floodplain Manager as described in NMSA 1978, § 3-18-7(C).

**7.18.7.2. Duties and Responsibilities of the Floodplain Administrator.** The 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 section, including the actual elevation (in relation to mean sea level) of the lowest floor elevation (including basement) of all new or

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substantially improved structures, any floodproofing certificate issued pursuant to this section, and a record of all variances granted, including the justification for issuance;

**2.** review, approve, deny, or approve with conditions each application for a development permit within a SFHA;

**3.** determine, for each application for a development permit within a SFHA, whether requirements of the SLDC have been satisfied, whether other required state and federal permits have been obtained, and whether the site is reasonably safe from flooding;

**4.** review applications for proposed development to assure that all necessary permits have been obtained from State, federal or local governmental agencies (including permits required by Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334);

**5.** inspect development during construction to ensure compliance with applicable provisions of this section;

**6.** make interpretations of the boundaries of a SFHA;

**7.** where the Base Flood Elevation has not been provided, obtain, review and reasonably utilize any Base Flood Elevation data and floodway data available;

**8.** notify, in riverine situations, adjacent communities and the State prior to any alteration or relocation of a watercourse, and submit evidence of the notice to FEMA;

**9.** ensure that the flood carrying capacity of any altered or relocated watercourse is maintained; and

**10.** complete and submit an annual or biennial report, as required, to the Federal Insurance Administrator, with a copy to the State Floodplain Administrator.

**7.18.8. Development Permit Required.** Prior to any development or change of use occurring within a SFHA (including: subdivision or land division; alteration or relocation of a watercourse including placement of structures, culverts, embankments, utilities or grading activity of any kind; the placement of fill; excavation; or storage of materials, vehicles or equipment), a development permit allowing floodplain development shall be obtained. In addition, all necessary permits shall be received from governmental agencies from which approval is required by Federal or State law, including but not limited to 33 U.S.C. § 1344 (Section 404 of the Federal Water Pollution Control Act of 1972).

**7.18.9. Permit Procedures.** Development within a SFHA does not require a separate floodplain permit, but rather, as part of the application for any development permit, the applicant will be asked to state if the project is located within a SFHA, which statement will be verified by the Administrator as part of application completeness review.

**7.18.9.1. Application Requirements.** If the project is located in whole or in part within a SFHA, the applicant shall provide all relevant information required by the Administrator, which shall include at minimum the following:

**1.** elevation (in relation to mean sea level), of the lowest floor (including

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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 New Mexico professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of § 7.18.11.2; and

**4.** description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

**7.18.9.2. Application Review.** Approval or denial of the development permit shall be based on the applicant's ability to demonstrate compliance with the standards of this section and consideration of the following 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;

**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 roads 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 flood waters 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; and

**10.** the relationship of the proposed use to the SGMP.

**7.18.10. Standards Applicable to all SFHAs.** In all SFHAs, all projects are subject to the standards of this subsection. Additional standards are set forth in subsequent subsections for areas where the base flood elevation is available and for floodways.

**7.18.10.1.** New construction and substantial improvements shall:

**1.** 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;

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**2.** be constructed with materials resistant to flood damage;

**3.** be constructed by methods and practices that minimize flood damage;

**4.** 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.

**7.18.10.2.** Subdivision plans shall be reviewed to assure that:

**1.** all such proposals are consistent with the need to minimize flood damage within the flood-prone area;

**2.** all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

**3.** adequate drainage is provided to reduce exposure to flood hazards.

**7.18.10.3.** Applications for new subdivision, land division, or other development (including applications for manufactured homes parks and subdivision) greater than fifty (50) lots or five (5) acres, whichever is lesser, shall include base flood elevation data.

**7.18.10.4.** Manufactured homes shall be installed using methods and practices which minimize flood damage. For purposes of this requirement, manufactured homes shall 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.

**7.18.10.5.** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

**7.18.10.6.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

**7.18.10.7.** On-site waste disposal systems shall be located to avoid impairment or contamination during flooding.

**7.18.10.8.** If a watercourse is altered or relocated in whole or in part, the application shall be reviewed to assure that the flood carrying capacity of the watercourse is maintained.

**7.18.10.9.** In riverine situations, adjacent communities and the State Coordinating Office shall be notified prior to any alteration or relocation of a watercourse, with copies of the notification provided to the certified floodplain administrator.

**7.18.11. Additional Standards where Base Flood Elevation is Available.** In SFHAs where base flood elevation data has been provided, the following standards apply in addition to those required by subsection 7.18.10:

**7.18.11.1. Residential Construction.** New construction and substantial improvement of any residential structure within Zones A1-30, AE and AH on the FIRM shall have the

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lowest floor (including basement) elevated one (1) foot above the base flood elevation.

**7.18.11.2. Nonresidential Construction.** New construction and substantial improvement of any commercial, industrial, or other nonresidential structure within Zones A1-30, AE and AH on the FIRM shall either have the lowest floor (including basement) elevated one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one (1) foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer in the State of New Mexico or an 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 for purposes of meeting the requirement of this section, and a record shall be kept of such certificates by the floodplain administrator that includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed.

**7.18.11.3. 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. The design for meeting this requirement shall either be certified by a registered professional engineer in the State of New Mexico or an architect, or meet or exceed the following minimum criteria:

**1.** a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

**2.** the bottom of all openings shall be no higher than one foot above grade; and

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

**7.18.11.4. Manufactured Homes.**

**1. Generally.** Each manufactured home that is placed or substantially improved within Zones A1-30, AH, and AE on the FIRM on sites (i) outside of a manufactured home park (i.e., manufactured housing community development) or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which 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 one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

**2. Excepted Homes.** Each manufactured home placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either the lowest floor of the manufactured home is one (1) foot above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least

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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.

**7.18.11.5. Recreational Vehicles.** 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. Each recreational vehicle that is placed on a site within Zones A1-30, AH, and AE on the FIRM shall either:

**1.** be on the site for fewer than 180 consecutive days;

**2.** be fully licensed and ready for highway use; or

**3.** meet the permit requirements of this section and the elevation and anchoring requirements for manufactured homes of this section.

**7.18.11.6. Cumulative Effects.** Until a regulatory floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the FIRM, unless it is determined 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 (1) foot at any point.

**7.18.12. Additional Standards for Areas of Shallow Flooding (AO/AH Zones).** The following standards apply to projects within AO and AH zones in addition to those in subsections 7.18.10 and 7.18.11:

**7.18.12.1. Residential.** All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as depth number specified in feet on the FIRM (and at least two feet if no depth number is specified).

**7.18.12.2. Nonresidential.** All new construction and substantial improvements of nonresidential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as depth number specified in feet on the FIRM (and at least two feet if no depth number is specified), or, together with attendant utility and sanitary facilities, be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

**7.18.12.3 . Drainage paths.** An adequate drainage path around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

**7.18.13. Standards for Floodways.** Where a regulatory floodway has been designated, the following standards apply:

**7.18.13.1.** Encroachments in a floodway are prohibited, including fill, new construction, substantial improvements and other development *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

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**7.18.13.2.** The County may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that all of the provisions required by 44 CFR 65.12 are met, including application to the Federal Insurance Administrator for conditional approval of such action prior to permitting the encroachments to occur.

**7.18.13.3.** Notwithstanding the general prohibition on encroachments in subsection 7.18.13.1, the following uses are permitted in a floodway provided they are permitted in the designated zone, are undertaken in compliance with other applicable state and federal law, and do not constrict flow or create a rise in the base flood elevation during a 100 year flood event:

**1.** cultivating and harvesting of crops according to recognized soil conservation practices;

**2.** pasturing, grazing;

**3.** open area residential uses such as lawns, gardens and play areas;

**4.** passive recreation areas such as parks or trails;

**5.** active recreation uses that do not include permanent structures and so long as any temporary structures or equipment are removed when not in active use;

**6.** wildlife sanctuary or woodland preserve;

**7.** outlet installations for sewage treatment plants and sealed public water supply wells;

**8.** stormwater management and arroyo or watercourse stabilization facilities, such as check dams and gabions, provided that any such facilities that constrict flow or create a rise in the base flood elevation during a 100 year flood event shall comply with all applicable FEMA regulations and all provisions of this section 7.18 that are more stringent than the FEMA regulations; and

**9.** railroads, roads, driveways, bridges, private and public utility lines that cross the floodway with minimal disturbance as determined by the Floodplain Administrator, and structural works for the control and handling of flood flows, such as dams, embankments, flood walls, velocity control structures or storm drainage control and handling works (with the exception of required stormwater detention facilities) provided that any such facilities that constrict flow or create a rise in the base flood elevation during a base flood event shall comply with all applicable FEMA requirements and all provisions of this section 7.18 that are more stringent than the FEMA regulations.

**7.18.14. Variances.** The Floodplain Administrator may recommend to the Hearing Officer and the Planning Commission a variance from the requirements of this section in accordance with this subsection.

**7.18.14.1.** A variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result. No variance shall be issued based on floodproofing until the Applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the

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structure or development to the flood protection elevation, and meet current FEMA criteria for floodproofing.

**7.18.14.2.** A variance 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, in conformance with the procedures of subsections .3 - .6 below. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

**7.18.14.3.** A variance shall only be issued upon (i) a showing a good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**7.18.14.4.** A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**7.18.14.5.** The applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 or $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained by the Administrator as required in subsection .6 below.

**7.18.14.6.** The Administrator shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.

**7.18.14.7.** A variance may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of subsections .1-.4 above are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

**7.18.14.8.** A variance may be issued for the repair or rehabilitation of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

**7.18.14.9.** Variances are further covered in the SLDC at subsection 14.9.7.

**7.19. NPDES.** Reserved.

**7.20. SOLID WASTE.**

**7.20.1 Applicability.** All development shall provide for collection and disposal of solid waste.

**7.20.2 Requirements**.

**7.20.2.1.** All developments within SDA-1 shall be served by County curbside collection

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as prescribed by separate ordinance, if applicable, or shall utilize a solid waste collection service.

**7.20.2.2.** All subdivisions within SDA-2 or SDA-3 and all non-residential, multi-family and manufactured home communities shall be served by County curbside collection and recycling as prescribed by separate ordinance, if applicable, or, if inapplicable, utilize one of the following:

**1.** A solid waste collection service; or

**2.** The nearest existing sanitary landfill or transfer station

**7.20.2.3.** Nonresidential and multifamily residential uses shall provide adequate containers for solid waste collection and storage, a screened area for solid waste storage, and disposal through the County, or an appropriate solid waste collection service, or directly. Screening shall consist of a six foot high solid wall or fence with a solid gate.

**7.20.2.4.** Residential uses shall store all solid waste awaiting proper disposal in enclosed containers or within a structure.

**7.20.2.5.** All solid waste, shall be removed from the property on a regular basis, but not less than monthly. .

**7.20.2.6.** All facilities generating manure shall have a plan for manure management, which can include:

**1.** Removal of manure from the property on a regular basis, but not less than monthly;

**2.** Utilization of a composting system; or

**3.** Spreading or harrowing of the manure on the ground to enrich the soil.

## 7.21. AIR QUALITY AND NOISE.

**7.21.1. Applicability/Environmental Performance Standards.** This section shall apply to nonresidential construction.

**7.21.2. General.** Nonresidential construction 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.

**7.21.3. Air Quality.** If an air quality permit is required by the regulations of the NMED, a permit shall be obtained and a copy presented at the time of application. The applicant shall comply with the permit at all times.

**7.21.4. Noise.** Any actual or projected measurement that exceeds the average conditions calculated over a 12 hour period, at the property line, of the limits shown in Table 7-21 may be considered grounds for denial of a development application.

**Table 7-21: Noise Limits.**

| Zoning District | Daytime | Nighttime |
|---|---|---|
| Industrial and | 70dBA, or 10 dBA | 55dBA, or 5 dBA above ambient; whichever |

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| | | |
|---|---|---|
| Commercial* | above ambient; whichever is less | is less |
| All Other Districts | 55dBA, or 5 dBA above ambient; whichever is less | 45dBA, or 5 dBA above ambient; whichever is less |

*These noise limits shall not apply to wind energy facilities'. Instead, see limits contained at §10.16.

## 7.22. FINANCIAL GUARANTY.

**7.22.1. Applicability**. Prior to the recording of a final plat and issuance of a development permit, an applicant for any of the following development projects shall submit for approval to the Administrator a financial guaranty for construction of any required public or private infrastructure improvements, landscaping or reclamation in accordance with the requirements of this section:.

**7.22.1.1.** for non-residential development over 10,000 square feet;

**7.22.1.2.** for multi-family development over 10,000 square feet; and

**7.22.1.3.** for any subdivision in excess of five lots.

**7.22.2. Construction of Improvements**. No land alteration or grading, removal of trees or other vegetation, land filling, construction of improvements, or other material change, except for location of surveying stakes for purposes of aiding in preparation of final engineering drawings or plans, shall commence on the subject property until the applicant has:

**7.22.2.1.** Received a development order from the Administrator approving the construction plans and granting final plat approval;

**7.22.2.2.** Entered into a voluntary development agreement and a subdivision improvement agreement as applicable; and

**7.22.2.3.** Deposited with the Administrator cash, a letter of credit, an escrow agreement, surety bond, or a payment and performance bond, sufficient to cover the cost of completion of all improvements, together with costs, expenses and attorney's fees in the event of default (as set forth in the engineer's cost estimate below), required to be made pursuant to the conditions of the development order granting final plat approval, the development and subdivision improvement agreements executed pursuant to this Chapter and the approved construction plans. The acceptance of any surety bond or letter of credit shall be subject to the approval of the Administrator and County Attorney.

**7.22.3. Engineer's Cost Estimate.** A cost estimate for all required public and private site improvements or reclamation shall be prepared by a New Mexico registered professional engineer and shall be submitted with the financial guaranty.

**7.22.4. Form of Guaranty.** Any letter of credit, escrow agreement, performance and payment bond or surety bond shall utilize the standard County template (guide) for the format and content of such Agreements. The template may be obtained from the Administrator. The guaranty shall conform to the following standards:

**7.22.4.1.** a payment and performance surety bond executed by a surety company licensed to do business in New Mexico in the amount of 100 percent of the cost estimate of all required improvements, or

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**7.22.4.2.** an irrevocable letter of credit in an institution licensed to do business in the State of New Mexico in the amount of 125 percent of the cost estimate of all required improvements.

**7.22.5.** [Reserved]

**7.22.6. Maintenance Bonds.** The applicant shall warranty any public improvements against defects in workmanship and materials for a period of five (5) years from the date of acceptance of such improvements.

**7.22.7. Engineering Inspection and Tests.** The Administrator may make inspections of improvements constructed pursuant to subsection 7.22.11 and this subsection of the SLDC to ascertain compliance with the provisions of this subsection and to ascertain compliance with the standards in the SLDC.

**7.22.7.1.** The Administrator will charge the applicant for the actual costs of such inspections during construction and for final inspection; however, it is to be understood that the County will do no layout work or daily inspection.

**7.22.8. Releases and Financial Guaranty.**

**7.22.8.1.** When an applicant has given payment and performance security in any of the forms provided in this Chapter, and when required site improvements have been completed and accepted, the original guaranty may be substituted with a new guaranty in an amount equal to 125% of the cost for completing the remaining site improvements. Such new guaranty need not be in the same form as the original guaranty. However, in no event shall the substitution of one security for another in any way alter or modify the obligation under the performance and payment bonds, letter of credit, or cash. Releases shall not be requested more than once a month.

**7.22.8.2.** As the improvements are completed, applicant may submit a written request, prepared by the project engineer, for a partial or full release of the financial guaranty. Such application shall show, or include:

**1.** Dollar amount of commitment guaranty,

**2.** Improvements completed, including dollar value,

**3.** Improvements not completed, including dollar value,

**4.** Amount of previous releases,

**5.** Amount of commitment guaranty requested released,

**6.** Release or waivers of mechanics liens of all parties who have furnished work, services, or materials for the Improvements, and

**7.** Reasonable fee, if the County requires any, to cover the cost of administration and inspections.

**7.22.8.3.** Upon receipt of the application, the Administrator shall inspect the required improvements, both those completed and those uncompleted. If the Administrator determines from the inspection that the required improvements shown on the application

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have been completed as provided herein, that portion of the collateral supporting the commitment guaranty shall be released. The release shall be made in writing signed by the Administrator and the County Attorney. The amount to be released shall be the total amount of the collateral:

**1.** Less 100 percent of the costs of the required improvements not completed;

**2.** Less 100 percent of the cost of any required landscaping, which shall be retained for at least one year following the landscape installation to guaranty its survival; and

**3.** Less 100 percent of the contingency.

**7.22.8.4.** If the Administrator determines that any of the required improvements are not constructed in substantial compliance with specifications, it shall furnish the Applicant a list of specifications and shall be entitled to withhold collateral sufficient to insure substantial compliance.

**7.22.9. Demand on Financial Guaranty.** If the Administrator determines that the Applicant will not construct any or all of the improvements in accordance with all required specifications, the Administrator may demand on the collateral of such funds as may be necessary to construct the improvements in accordance with the specifications.

**7.22.10. Guaranty.** The applicant shall require his construction contractors, with whom he contracts for furnishing materials and for installation of the improvements required under this section, that each obtains the proper financial guaranty under the SLDC, and shall furnish to the County a written guaranty of all workmanship and materials, that each shall be free of defects for a period of two years from the date of acceptance by the Administrator.

**7.22.11. Inspection and As-Built Plans.**

**7.22.11.1.** The Administrator, at its own expense, shall independently inspect the construction of improvements while in progress, and, shall likewise inspect such improvements upon completion of construction. The design engineer shall certify that construction was completed to plan, and shall have approved any change(s) to the approved plan in consultation with the Administrator. After final inspection, the Administrator shall notify the applicant in writing as to its acceptance or rejection. The Administrator shall reject such construction only if it fails to comply with the standards and specifications contained or referred to herein or were not per County approved plans.

**7.22.11.2.** The engineer for the applicant shall submit to the County staff a complete set of as-built drawings and photographs in reproducible hard copy and digital format showing all subdivision improvements, including utility locations (gas, water, sewer and telephone), paving and drainage improvements, and all changes made in the plans during construction. Each hard copy sheet shall contain an as-built stamp bearing the signature of the engineer and the date. Digital information shall be provided in a format specified by the Administrator.

**7.22.12. Reimbursement.** Where oversized County, regional, federal or state facilities are required, or when public facilities are advanced by the owner, a special reimbursement procedure shall be provided for in the development order approving the final plat and in the development and subdivision improvement agreements, to reimburse the owner from funds received from subsequent developers utilizing a portion of the capacity of the public improvements in order to meet their adequate public facility and service requirements under the SLDC.

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## 7.23. OPERATION AND MAINTENANCE OF COMMON IMPROVEMENTS.

**7.23.1. Generally.** All common infrastructure and improvements required by the SLDC shall be operated and maintained by the County or by a third party as required by this section. The instruments creating the dedication, homeowners' association (HOA), condominium association, easement, transfer, or improvement district shall be attached for review and approval to any application for a project that includes improvements for public use.

**7.23.2. Dedication.** Dedication of land and/or an improvement to the County satisfies the requirements of this section. Dedication shall take the form of a fee simple ownership. The County may accept an improvement if:

**7.23.2.1.** The improvement has been fully constructed;

**7.23.2.2.** Property dedicated is accessible to the general public;

**7.23.2.3.** There is no cost of acquisition other than costs incidental to the transfer of ownership, (such as title insurance); and

**7.23.2.4.** The improvement conforms to the applicable standards of the SLDC.

**7.23.3. Homeowners' Association.**

**7.23.3.1.** Improvements that are owned in common by all owners of lots or units in a subdivision or condominium are required to be operated and maintained by a homeowners' association ("HOA") established in the covenants, conditions, and restrictions ("CC&Rs") adopted as a condition of development approval. The CC&Rs shall provide that, in the event that the association fails to maintain the improvements according to the standards of the SLDC, the County may, following reasonable notice and demand that deficiency of operation or maintenance be corrected, enter the land area to repair, operate, or maintain the improvement. The CC&Rs shall provide that the cost of such repair, operation or maintenance shall be the responsibility of the HOA, which shall be required by the CC&Rs to levy an assessment to be charged to all owners.

**7.23.3.2.** The HOA shall be formed and operated under the following provisions:

**1.** The HOA shall be organized by the developer, and shall be operated with a financial subsidy from the developer prior to the sale of an adequate number of lots or units within the development or condominium to effectively operate the HOA;

**2.** Membership in the HOA is mandatory for all purchasers of homes and their successors, although owners of affordable units may be charged a lesser rate. The conditions and timing of transferring control of the HOA from developer to homeowners shall be identified;

**3.** The HOA shall be responsible for maintenance of insurance and taxes on undivided improvements, enforceable by liens placed by the County on the HOA. The HOA shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues or assessments. Such liens may require the imposition of penalty or interest charges. Should any bill or bills for maintenance of undivided improvement be unpaid by November 1st of each year, a late fee shall be added to such bills and a lien shall be filed

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against the premises;

**4.** A proposed operations budget and plan for long term capital repair and replacement of the improvements shall be submitted with the final plat or condominium declaration. The members of the HOA shall share the costs of maintaining and developing such undivided improvement. As provided in the HOA bylaws.

**5.** In the event of a proposed transfer, within the methods here permitted, of undivided improvement land by the HOA, notice of such action shall be given to the County and to all property owners within the development;

**6.** The HOA shall have, hire or contract for staff to administer common facilities and properly and continually maintain the undivided improvement;

**7.** The HOA may lease improvement lands to any other qualified person, or corporation, for operation and maintenance of park or open space lands, but such a lease agreement shall provide that:

**a.** The residents of the development shall at all times have access to the reserved park or open space lands;

**b.** The undivided improvement to be leased shall be maintained for the purposes set forth in the SLDC; and

**c.** The operation of improvement facilities may be for the benefit of the residents only, or may be open to the general public, at the election of the developer or HOA, as the case may be. The lease shall be subject to the approval of the board, and any transfer or assignment of the lease shall be further subject to the approval of the board. Lease agreements so entered upon shall be recorded with the register of deeds within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the County.

**8.** Failure to adequately maintain undivided improvements in reasonable order and condition constitutes a violation of the SLDC. The County is authorized to give notice, by personal service or by U.S. Mail, to the HOA owner or occupant, as the case may be, of any violation, directly to the owner to remedy same within thirty (30) days.

**7.23.3.3.** Except for HOAs and boards with authority over condominiums or time-shares, HOAs and boards shall comply with and be bound by the requirements of the Homeowner Association Act ("HOA"), enacted by the New Mexico Legislature as the Laws of 2013, Chapter 122 (SB 497), with an effective date of July 1, 2013. Such compliance shall include but not be limited to:

**1.** recording its declaration with the County Clerk if the HOA was organized after July 1, 2013;

**2.** recording with the County Clerk by June 30, 2014 a Notice of Homeowner Association if the HOA was organized before July 1, 2013;

**3.** making financial and other records of the HOA available to a lot owner within ten (10) business days of a request at no charge other than a reasonable copy fee;

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**4.** furnishing to a lot owner within ten (10) business days of a request a binding, recordable statement setting forth the amount of any unpaid assessments against that owner's lot;

**5.** requiring the HOA's board, or lot owners if so-provided in the community documents, to adopt an annual budget for the HOA and to provide a summary of that budget to all lot owners; and

**6.** furnishing to a lot owner within ten (10) business days of a request a Disclosure Certificate containing some eleven (11) enumerated categories of detailed information about the property, the property owner's currency with associate assessments and fees, and the HOA's books.

**7.23.4. Condominiums.** The undivided improvement and associated facilities of a condominium may be controlled through the use of a permanent condominium agreement, approved by the County. All undivided improvement land within a condominium shall be held as a common element.

**7.23.5. Easements.**

**7.23.5.1.** The County may, but is not required to, accept easements for public use of any portion or portions of undivided improvement land, the title of which is to remain in ownership by a condominium or HOA, provided that:

**1.** Such easement is accessible to the County residents;

**2.** There is no cost of acquisition other than any costs incidental to the transfer of ownership, (such as title insurance); and

**3.** A satisfactory maintenance agreement is reached between, as applicable, the developer, the condominium, the HOA, the owners, and the County.

**7.23.5.2.** An easement consisting of land dedicated as a natural area, greenway, or green-belt shall be subject to a duly executed conservation easement meeting the requirements of, and enforceable in accordance with state statute, which easement shall be unlimited in duration.

**7.23.6. Easements for Parks and Open Space.** For parks and open space only, an owner may transfer perpetual easements to a private, nonprofit organization among whose purposes it is to conserve improvements or natural resources such as a land conservancy instead of transferring an easement to the County, provided that:

**7.23.6.1.** The organization is a bona fide conservation organization with perpetual existence;

**7.23.6.2.** The organization is financially capable of maintaining such improvement;

**7.23.6.3.** The conveyance contains legally enforceable provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions;

**7.23.6.4.** The organization shall provide a proposed operations budget and plan for long term capital repair and replacement; and

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**7.23.6.5.** A maintenance agreement is entered into initially by the developer and subsequently by the owners, HOA, condominium and the organization.

**7.23.7. Improvement or Special Assessment Districts.** An improvement or special assessment district may be established pursuant to Chapter 12 with authority, as appropriate, to levy taxes, fees, charges, land dedications, or special assessments to provide, operate, and maintain parks and open space lands and facilities.

## 7.24. SWIMMING POOLS.

**7.24.1. Applicability**. Except for community-accessible swimming pools, indoor or outdoor swimming pools are prohibited for new development on any new lot being created. Only a development that received final plan or plat approval, or development plan approval, prior to the effective date of the enactment of the Santa Fe County Land Development Code, Ordinance No. 1996-10, may have a swimming pool, unless its final plan or plat approval, or development plan contained language that specifically prohibited a swimming pool or pools.

**7.24.2. Restrictions on Construction of Swimming Pools, Temporary Restrictions on Construction of Swimming Pools**

**7.24.2.1.** Construction of a Swimming Pool is not permitted unless specifically approved pursuant to the provisions of this Ordinance.

**7.24.2.2.** The requirements of § 7.24. may be waived upon a showing that construction and use of a Swimming Pool is necessary as treatment for a medical condition.

**7.24.2.3.** Construction of a Swimming Pool shall not be permitted during periods when the governing authority of the supplier of water to be used for filling and refilling the Swimming Pool has declared drought-related use restrictions or supply-related use restrictions, or when a water emergency is declared by Ordinance of the Board of County Commissioners.

**7.24.3. New Construction of Swimming Pools.** Construction of a new Swimming Pool shall be permitted, so long as:

**7.24.3.1.** the property proposed for the Swimming Pool is not restricted with water restrictive covenants or otherwise to the extent that operation of a Swimming Pool on the premises is not feasible;

**7.24.3.2.** the water budget and restrictions, if any, on the property are adequate to permit filling the Swimming Pool initially, and refill the Swimming Pool thereafter with up to twenty percent of the Swimming Pool's total volume annually;

**7.24.3.3.** the water supply proposed for the pool is adequate to supply water to fill the Swimming Pool initially and refill the Swimming Pool thereafter with up to twenty percent of the Swimming Pool's total volume annually; and

**7.24.3.4.** the Swimming Pool is covered when not in use, except for a Community Swimming Pool.

**7.24.4. Replacement Swimming Pools.** An existing Swimming Pool may be replaced with a Swimming Pool without being subject to the conditions set forth in § 7.24.4.1., so long as:

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**7.24.4.1.** the replacement Swimming Pool is of the same total volume as the pool being replaced; and

**7.24.4.2.** the existing Swimming Pool was properly permitted under County ordinances in effect at the time of initial construction; and

**7.24.4.3.** the replacement Swimming Pool is covered when not in use.

**7.24.5. Design.**

**7.24.5.1.** Each outdoor Swimming Pool shall employ a means to conserve and utilize rainwater falling on the cover and adjoining deck area. Such captured water shall not be accounted for in the calculation of water availability for or used by the Swimming Pool.

**7.24.5.2.** Each outdoor Swimming Pool shall have an automatic pool cover that covers the pool when not in use or after a specified period of time. The automatic pool cover shall be kept in operable condition at all times.

**7.24.5.3.** Each new Swimming Pool shall have a draft fire hydrant, approved by the County Fire Marshall, through which the Fire Department may draw water from the pool to fight fires in the vicinity. The fire hydrant may be tested by the Fire Marshall upon advance notice.

**7.24.5.4.** Filtering systems employed on each new Swimming Pool shall employ a cartridge filter or other filtering system that does not require backwashing and which uses less than two hundred gallons of water for filter cleaning and maintenance.

**7.24.6. Filling and Refilling the Swimming Pool.**

**7.24.6.1.** A Swimming Pool may be filled using water from a well, a shared well, a community water system, the County's Water Utility, a municipality, a mutual domestic water association, a water and sanitation district, or any other public water supply system regulated by the Public Regulation Commission. Trucked water may be used to fill and refill a Swimming Pool, but the fact that water is being trucked to the Swimming Pool shall not be used in making calculations of the ability of the relevant water source to fill and re-fill the Swimming Pool pursuant to Subsection 7.24.2.3. herein.

**7.24.6.2.** A Swimming Pool shall only be filled when absolutely necessary, and no more frequently than once each year, unless the Pool must be emptied to perform repairs.

## 7.25. SPECIAL PROTECTION OF RIPARIAN AREAS.

**7.25.1. Applicability.** This section applies to any development depicted in documents or activities, including but not limited to a subdivision plat, land division or site plan.

**7.25.2. Relation to Flood Prevention and Flood Control.** This section and Section 7.18 of the SLDC ("Flood Prevention and Flood Control") are related.

**7.25.3. Beneficial Use Determination.** A person aggrieved by restrictions applicable to property pursuant to this Section may apply for a beneficial use determination pursuant to Section 14.9.8 of the SLDC.

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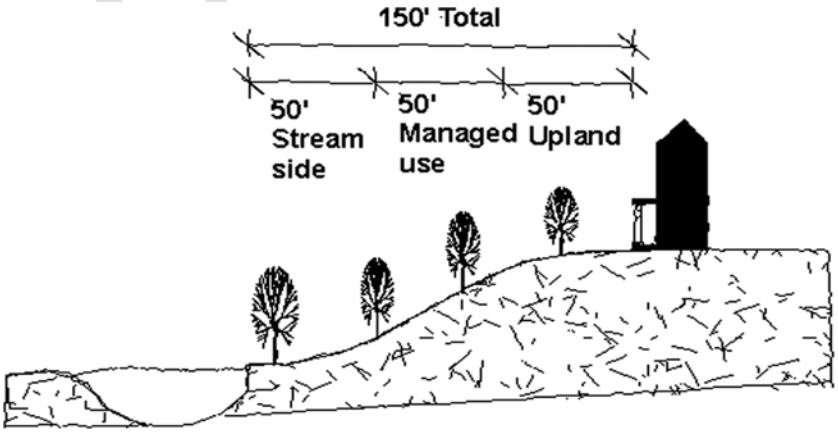
**7.25.4. Riparian Corridors.** Riparian corridors are established as described in Table 7-22 and the Official Map. *See also* Figure 7.7. Distances specified shall be measured as the horizontal, linear distance from the stream bank. There shall be three zones of stream corridors, having the dimensions shown in Table 7-22. Areas designated as Special Flood Hazard Zones under Section 7.18 of the SLDC and are also designated as floodways and described in Section 7.18.13 of the SLDC, shall be designated as the "Stream Side Zone." Areas designated as Special Flood Hazard Zones under Section 7.18 of the SLDC shall be designated and correspond to the "Managed Use Zone." Construction adjoining riparian areas that are also designated as Special Flood Hazard Zones under Section 7.18 of the SLDC, shall be set back as provided in Section 7.17.5.2.7 of the SLDC and shall be designated and correspond to the "Upland Zone."

**Table 7-22 Definition of Stream Corridor Zones**

| (A) Corridor | Applicability | | | (E) Location and Required Width of Zone |
|---|---|---|---|---|
| | (B) Perennial Stream | (C) Intermittent Stream | (D) Perennial Water Body | |
| **Stream Side Zone** | Yes | Yes | Yes | 50 feet from stream bank |
| **Managed Use Zone** | Yes | - | - | 50 feet from outer edge of stream side zone |
| **Upland Zone** | Yes | - | - | 50 feet from managed use zone, or out to resource conservation district elevation, whichever is greater |
| **Total corridor area** | 150 | 50 | 50 | 150 feet minimum from each side of stream bank |

**Figure 7.7 Riparian Corridors**

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**7.25.5. Permitted Uses and Activities in Riparian Corridors.** Provided a specific use is permitted within the applicable zoning district, a use permitted in Column (A) of Table 7-23 is permitted within the applicable corridor zone as defined in Table 7-22. Such uses are restricted to the corridor zones indicated in Columns (B), (C), and/or (D) of Table 7-23.

**Table 7-23**
**Permitted Uses Within Riparian Buffer Corridors**

| (A) Use | (B) Stream Side Zone | (C) Managed Use Zone | (D) Upland Zone |
|---|---|---|---|
| Trails, greenways, open space, parks or other similar public recreational uses and private recreational uses that do not require the use of fertilizers, pesticides, or extensive use of fences or walls. | **P** | **P** | **P** |
| Outdoor horticulture, forestry, wildlife sanctuary, and other similar agricultural and related uses not enumerated elsewhere in this table that do not require land-disturbing activities, or use of pesticides or extensive use of fences or walls. | **P** | **P** | **P** |
| Pastures or plant nurseries that do not require land-disturbing activities or use of pesticides, or extensive use of fences or walls. | **N** | **P** | **P** |
| Gardens, play areas, and other similar uses that do not require the use of pesticides for routine maintenance | **N** | **P** | **P** |
| Lawns, golf course fairways, play fields, and other areas that may require the use of fertilizers or pesticides. | **N** | **N** | **P** |
| Archery ranges, picnic structures, playground equipment, and other similar public and private recreational uses that do not require the use of fertilizers, pesticides, or extensive use of fences or walls. | **N** | **P** | **P** |
| Public utility and storm drainage facilities where there is a practical necessity to their location within the resource conservation district (RCD). | **P** | **P** | **P** |
| Streets, bridges, and other similar transportation facilities where there is a practical necessity to their location within the RCD. | **C** | **C** | **C** |
| Sidewalks. | **P** | **P** | **P** |
| Accessory land-disturbing activities ordinarily associated with a single- or two-family dwelling, such as utility service lines, gardens, and similar uses. | **N** | **P** | **P** |
| Public maintenance of streets, bridges, other similar transportation facilities and/or public utility and storm drainage facilities. | **P** | **P** | **P** |

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| | | | |
|---|---|---|---|
| Detention/retention basin and associated infrastructure. | **N** | **P** | **P** |
| Lakes, ponds, and associated infrastructure, such as dams, spillways, riser pipes, and stilling basins, which are located outside of the regulatory floodplain. | **C** | **C** | **C** |
| Stream and riparian area restoration and maintenance. | **P** | **P** | **P** |

***P = the activity is permitted as of right; N = the activity is prohibited; and C = the activity is permitted only upon approval of a conditional use permit or a subdivision application.***

**7.25.6. Development Standards in Riparian Buffers.** The following standards and criteria shall apply to any portion of a development or, as appropriate, to any land disturbance, within a riparian buffer:

**7.25.6.1.** Stormwater may be discharged from an impervious surface into a stream channel consistent with regulations of the Environmental Protection Agency pursuant to the Clean Water Act [33 U.S. Code § 1252 *et seq*] and, as applicable, the County's MS4 discharge permit as set forth in subsection 7.19.

**7.25.6.2.** Streets and driveways shall be located, as much as practicable, parallel to the flow of water. Where a street, driveway, or utility line necessarily must cross a watercourse, such crossing shall be located and designed to allow convenient access by wildlife through and beyond such crossing, and shall be designed to safely convey floodwaters to the same extent as before construction of said crossing.

**7.25.6.3.** Streets and bridges shall be spaced at an average interval of at least 400 feet within the proposed development, and not closer than 200 feet from streets on contiguous property. This distance shall be measured from the edge of the paved surface.

**7.25.6.4.** Water supply, sanitary sewer, and on-site waste disposal systems shall be designed to:

**1.** Prevent the infiltration of flood waters into the system;

**2.** Prevent discharges from the system or systems into flood waters; and

**3.** Avoid impairment during flooding to minimize flood damage. Finished floor elevations to be served by sanitary sewer shall be at or above the rim elevation of the nearest upstream manhole cover. Sanitary sewer manholes shall be provided with locking, watertight manhole covers, or be elevated to a height sufficient to prevent submersion or infiltration by floodwaters. All sewer and sewer outfall lines shall use gravity flow to a point outside the riparian buffers.

## 7.26. INFRASTRUCTURE AND RIGHT-OF-WAY DEDICATION.

**7.26.1. Construction of Infrastructure Improvements.** All developments approved pursuant to the SLDC shall dedicate property and rights-of-way for and construct thereon public infrastructure improvements to, as required by the SLDC including, but not limited to, the following:

**7.26.1.1.** fire hydrants, fire lanes, emergency access roads and access gates as may be required by the New Mexico Fire Code and the Santa Fe County Fire Code;

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**7.26.1.2.** streets, roads, curbs, gutters, signing, striping, traffic control devices, and street lighting consistent with the standards established in the SLDC;

**7.26.1.3.** site grading and retaining walls;

**7.26.1.4.** fences, walls and landscaping required by the SLDC;

**7.26.1.5.** solid waste facilities required by the SLDC;

**7.26.1.6.** drainage or other facilities required to provide terrain and stormwater management, and flood or floodplain management pursuant to the SLDC;

**7.26.1.7.** landscaping, irrigation, amenities, and other improvements to common open space or parks provided pursuant to the SLDC;

**7.26.1.8.** connections and extensions to sanitary sewers or independent site-specific sewerage facilities pursuant to the SLDC;

**7.26.1.9.** connection to water mains or water facilities pursuant to the SLDC;

**7.26.1.10.** parks, trails and other facilities required by the SLDC:

**7.26.1.11.** other required utilities including natural gas, electricity, broadband or telephone facilities;

**7.26.1.12.** buildings to serve as fire stations, police substations, solid waste facilities, sewer facilities, water facilities, or other public buildings required to serve the development and made necessary by the application of an LOS; and

**7.26.1.13.** other facilities that may be required.

**7.26.2. Dedication of Rights-of-Ways and Easements.** Any property proposed to be dedicated for a right-of-way or easement in connection with a development, whether related to required infrastructure improvements described in the previous paragraph or not, shall be dedicated before or concurrently with the recording of a subdivision plat, land division plat, or prior to issuance of a development permit for which a plat is not required. Rights-of-ways or easements shall meet or exceed the dimensional standards set forth in the SLDC.

**7.26.3. Infrastructure Completion Agreement.**

**7.26.3.1.** Any infrastructure improvements required for development shall be completed by the applicant in accordance with the SLDC and/or any plans and specifications submitted and approved pursuant to the SLDC.

**7.26.3.2.** If the infrastructure improvement is not constructed at the time of issuance of a development permit, the applicant shall enter into an infrastructure improvement agreement with the County to construct the infrastructure improvements. Unless specific infrastructure improvements are included in a voluntary development agreement, any infrastructure improvement shall be completed or the improvement agreement executed prior to the earliest of the following:

**1.** Recording of a subdivision plat or land division plat; or

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**2.** Issuance of a development permit.

**7.26.3.3.** All infrastructure improvements shall be completed no later than two (2) years following the execution of an infrastructure improvement agreement, with additional time provided by the Administrator for good cause shown, not to exceed an additional two (2) years.

**7.26.3.4.** An infrastructure improvement agreement shall be accompanied by financial assurance that complies with Section 7.22 of the SLDC, in the amount of 110% of the total value of infrastructure improvements to be provided, as determined by an estimate provided by an engineer duly registered to practice engineering in the State of New Mexico.

**7.26.4. Acceptance.** Once constructed, infrastructure improvements may be accepted by the County following an inspection. If acceptable, the infrastructure improvements may be accepted so long as the infrastructure improvements conform to the SLDC and any plans and specifications submitted and approved pursuant to the SLDC. Acceptance shall be made by the Administrator following the inspection, and shall be in writing.

**7.26.5. Infrastructure Warranties.** Any infrastructure proposed for dedication to the County shall be accompanied by a written warranty for a period of one (1) year following acceptance. Any defects in design or construction arising within the warranty period shall be repaired or replaced at the sole expense of the applicant at no cost to the County if such occurs during the warranty period.

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# Chapter 8 – Zoning

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# CHAPTER 8 – ZONING

**8.1. PURPOSE.** This chapter is adopted to promote and protect the public health, safety and general welfare through orderly zoning regulation of land uses throughout the unincorporated area of the County. In addition to the other purposes of the SLDC as described in Chapter 1 and succeeding chapters, the following additional specific purposes are hereby adopted:

**8.1.1.** Provide for consistency with the SGMP, and any applicable area, district and community plans, and internally with the SLDC;

**8.1.2.** Divide the County into base, planned development and overlay zoning districts of a number, size and location deemed necessary to carry out the purposes of the SGMP and the SLDC;

**8.1.3.** Provide for a system of Sustainable Development Areas (SDAs) that are established by the SGMP to guide orderly development when infrastructure and services become available and time and sequence development so that infrastructure and services are available when needed;

**8.1.4.** Promote and incentivize infill into SDA-1 and SDA-2 areas where adequate public facilities and services presently exist;

**8.1.5.** Balance residential development with economic development where appropriate to assure County fiscal integrity;

**8.1.6.** Promote and incentivize flexible planned mixed-use buildings, centers and neighborhoods;

**8.1.7.** Protect environmentally sensitive lands, and the preservation of natural, archaeological, cultural and historical resources pursuant to the Land Development Suitability Analysis contained in the SGMP;

**8.1.8.** Promote sustainable design and improvement standards;

**8.1.9.** Provide adequate light and air; and

**8.1.10.** Determine the location, density, height, mass, minimum lot size and use of buildings, structures and land for residential, commercial, industrial and other purposes.

**8.2. GENERAL REQUIREMENTS.**

**8.2.1.** No land shall be used or occupied and no structures shall be designed, erected, altered, used or occupied, including all lands, lots, parcels or tracts created through an exemption to the parcel division and subdivision process, except in conformity with all of the zoning regulations, standards and procedures, compliance with all sustainable design and improvement standards, and upon performance of all conditions attached to any zoning map or text amendment, conditional use permit, variance, beneficial use determination statement, development approval, voluntary development agreement, and/or site development plan approved pursuant to the SLDC, or otherwise.

**8.2.2.** No person, firm, or corporation and no officer or employee (either as owner or as participating principal, agent, servant, or employee of such owner) shall sell, rent, lease, or offer to sell, rent, or lease any land or structure upon the representation, falsely made and known to be false, that such land or structure may be used or occupied in a manner or for a use prohibited by this chapter or by the SLDC.

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**8.3. ESTABLISHMENT OF ZONING DISTRICTS.** This chapter establishes base zoning districts, planned development districts and overlay zones and describes use and design requirements that apply to each. All land in the unincorporated area of the County to which this SLDC applies is located within a base zoning district or a planned development district, and may be additionally subject to an overlay zoning designation.

**8.3.1. Base Zoning Districts.** Base zoning districts divide the County into agricultural, residential, commercial, industrial and mixed use zones with established boundaries and specified development uses. Base zoning districts approved for use in the County are listed in Table 8-1.

**Table 8-1: Base Zoning Districts.**

| | |
|---|---|
| **Residential:** | |
| **A/R** | Agriculture/ranching |
| **RUR** | Rural |
| **RUR-F** | Rural Fringe |
| **RUR-R** | Rural Residential |
| **RES-F** | Residential Fringe |
| **RES-E** | Residential Estate |
| **RES-C** | Residential Community |
| **TC** | Traditional Community |
| **Non-Residential:** | |
| **CG** | Commercial General |
| **CN** | Commercial Neighborhood |
| **I** | Industrial General |
| **IL** | Industrial Light |
| **P/I** | Public/Institutional |
| **Mixed Use:** | |
| **MU** | Mixed Use |

**8.3.2. Planned Development Districts.** Planned Development Districts may be established in appropriate areas in lieu of the base district zoning in accordance with §8.9. Planned development districts approved for use in the County are listed in Table 8-2.

**Table 8-2: Planned Development Districts.**

| | |
|---|---|
| **PD** | Planned Development |
| **PD-NC** | Planned - Neighborhood Center |
| **PD-TND** | Planned - Traditional Neighborhood District |
| **PD-RC** | Planned - Regional Center |
| **PD-CS** | Planned - Conservation Subdivision |
| **PD-C/O** | Planned - Campus/Opportunity Center |
| **PD-TOD** | Planned - Transit Oriented Development |

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**8.3.3. Overlay Zones.** Overlay zones may be established over existing base zoning districts and planned development districts, as appropriate. Within an overlay zone, the standards of the underlying district shall apply, but as modified by the additional requirements and standards of the overlay zone. Overlay zones may be used to address special situations related to: providing commercial uses in rural areas; preserving community development and use patterns; preserving historic areas and buildings, preserving environmentally sensitive lands and cultural resources; or regulating developments of countywide impact to protect public health, safety and welfare. Overlay zones approved for use are listed in Table 8-3.

**Table 8-3: Overlay Zones.**

| | |
|---|---|
| **O-RC** | Rural Commercial |
| **O-CD** | Community District |
| **O-ERP** | Environmental and Resource Protection |
| **O-HP** | Historic Preservation |
| **O-DCI** | Development of Countywide Impact |
| **O-AN** | Airport Noise Overlay |

## 8.4. ZONING MAP.

**8.4.1. Adoption of Zoning Map.** All land in the unincorporated area of the County to which this SLDC applies shall be set forth on the County's zoning map, which will designate base zoning districts, planned development districts and, as applicable, overlay zones. All lands shall be zoned as set forth on the zoning map.

**8.4.2. Zoning District Boundaries.** Where uncertainty exists as to the boundaries of any zoning district shown on the zoning map, the following rules shall apply:

**8.4.2.1.** Where zoning district boundaries are indicated as approximately following road, highway, railroad or lot lines, such lines shall be construed as extending to the centerline of such road or highway, or lot line.

**8.4.2.2.** In property that has not been subdivided or where a zoning district boundary divides a lot, the location of the zoning district boundary, unless specified by dimensions, shall be determined by use of the scale appearing on the map.

**8.4.2.3.** Where a public road is officially vacated or abandoned, the regulations applicable to abutting property shall apply to the vacated or abandoned road.

**8.4.2.4.** Where any private right of way or easement of any railroad, acequia or public utility company is vacated or abandoned, the rules applicable to abutting properties shall apply to the vacated right of way or easement.

**8.4.2.5.** In case uncertainty exists after application of these rules, the Administrator shall determine the location of district boundaries, subject to appeal to the planning commission.

**8.4.3. Default Zoning.** Any property to which the SLDC applies that is not depicted on the zoning map within a zoning district established in Chapter 8 of the SLDC, shall be deemed to be located in the A/R Zoning District unless otherwise specifically provided for herein.

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**8.4.4. Interpretation of Zoning District Densities.** Maximum densities that are specified for zoning districts in this chapter are maximum gross densities that apply to the entire area within a development project or subdivision and are not necessarily minimum lot sizes for individual lots.

## 8.5. USE REGULATIONS.

**8.5.1. Use Matrix.** Uses permitted in the base zones and planned development zoning districts are shown in the use matrix in Appendix B. All uses are designated as permitted, accessory, or conditional, as further explained in Table 8-4. Accessory uses may be subject to specific regulations as provided in Chapter 10, and conditional uses are subject to the conditional use permit standards provided in Chapter 14. In addition, uses may be subject to modification by the overlay zoning regulations included in this chapter.

**Table 8-4: Use Matrix Labels.**

| | |
|---|---|
| **P** | **Permitted Use:** The letter "P" indicates that the listed use is permitted by right within the zoning district. Permitted uses are subject to all other applicable standards of the SLDC. |
| **A** | **Accessory Use:** The letter "A" indicates that the listed use is permitted only where it is accessory to a use that is permitted or conditionally approved for that district. Accessory uses shall be clearly incidental and subordinate to the principal use and located on the same tract or lot as the principal use. |
| **C** | **Conditional Use:** The letter "C" indicates that the listed use is permitted within the zoning district only after review and approval of a Conditional Use Permit in accordance with Chapter 14. |
| **DCI** | **Development of Countywide Impact: The letters "DCI" indicate that the listed use is permitted within the zoning district only after review and approval as a Development of Countywide Impact.** |
| **X** | **Prohibited Use:** The letter "X" indicates that the use is not permitted within the district. |

**8.5.2. Grazing and Ranching Uses.** Grazing and ranching of livestock shall be allowed anywhere in the County. A development permit is not required for this use, however, a development permit is required for any structure(s) related to this use in accordance with the siting and design standards of this SLDC.

**8.5.~~2~~3. Uses not specifically enumerated.** When a proposed use is not specifically listed in the use matrix, the Administrator may determine that the use is materially similar to an allowed use if:

**8.5.2.1.** The use is listed as within the same structure or function classification as the use specifically enumerated in the use matrix as determined by the Land-Based Classification Standards (LBCS) of the American Planning Association (APA). See http://www.planning.org/lbcs/standards/.

**8.5.2.2.** If the use cannot be located within one of the LBCS classifications, the Administrator shall refer to the most recent manual of the North American Industry Classification System (NAICS). If the use cannot be located within the NAICS, the Administrator shall make a determination whether the proposed use is materially similar to a use within the same industry classification of the NAICS manual; if so, the Administrator shall approve the use. If not, the Administrator shall deny the use. *See http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

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## 8.6. RESIDENTIAL ZONING DISTRICTS.

### 8.6.1. Agriculture/Ranching (A/R).

**8.6.1.1. Purpose.** The purpose of the Agriculture/Ranching (A/R) district is to designate areas suitable for agricultural, ranching and residential uses, and to prevent encroachment of incompatible uses and the premature conversion of agricultural and ranch lands to nonagricultural uses. Uses in the A/R district are limited to agricultural, ranch, residential and other compatible uses. This designation reflects areas whose present use is agricultural, such as grazing or dry land farming. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

**8.6.1.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory, and conditional uses allowed within the A/R district.

**8.6.1.3. Dimensional Standards.** The dimensional standards within the A/R district are outlined in Table 8-5.

**Table 8-5: Dimensional Standards – A/R (Agriculture/Ranching).**

| Zoning District | A/R |
|---|---|
| Density (# of acres per dwelling unit) | 160 |
| Lot width (minimum, feet) | 400 |
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 36 |
| Height (maximum, feet), hay or animal barn, silo | 50 |

### 8.6.2. Rural (RUR).

**8.6.2.1. Purpose.** The purpose of the Rural (RUR) district is to designate areas suitable for a combination of agricultural, equestrian, residential and other compatible uses. The intent of the RUR district is to protect agricultural uses from encroachment by development and to support agricultural, ranch, very large lot residential, ecotourism and equestrian uses. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

**8.6.2.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the RUR district.

**8.6.2.3. Dimensional Standards.** The dimensional standards within the RUR district are outlined in Table 8-6.

**Table 8-6: Dimensional Standards – RUR (Rural).**

| Zoning District | RUR |
|---|---|
| Density (# of acres per dwelling unit) | 40 |
| Lot width (minimum, feet) | 150 |

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| | |
|---|---|
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 36 |
| Height (maximum, feet), hay or animal barn, silo | 50 |

### 8.6.3. Rural Fringe (RUR-F).

**8.6.3.1. Purpose.** The purpose of the Rural Fringe (RUR-F) district is to designate areas suitable for a combination of estate-type residential development, agricultural uses and other compatible uses. The RUR-F designation provides an intermediate step in development density between typical open space and agricultural/ranching lands and primarily residential (low density) parcels. This zone also serves to protect agricultural and environmental areas that are inappropriate for more intense development due to their sensitivity. The RUR-F zone accommodates primarily large lot residential, ecotourism, equestrian uses and renewable resource-based activities, seeking a balance between conservation, environmental protection and reasonable opportunity for development. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

**8.6.3.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory, and conditional uses allowed within the within the RUR-F district.

**8.6.3.3. Dimensional Standards.** The dimensional standards within the RUR-F district are outlined in Table 8-7.

**Table 8-7: Dimensional Standards – RUR-F (Rural Fringe).**

| Zoning District | RUR-F |
|---|---|
| Density (# of acres per dwelling unit) | 20 |
| Lot width (minimum, feet) | 100 |
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 36 |
| Height (maximum, feet), hay or animal barn, silo | 50 |

### 8.6.4. Rural Residential (RUR-R).

**8.6.4.1. Purpose.** The purposes of the Rural Residential (RUR-R) district are: to provide for the development of single-family homes on large lots, either individually or as part of rural subdivisions; to preserve the scenic and rural character of the County; to provide consolidated open space and agricultural lands; and to recognize the desirability of carrying on compatible agricultural operations and home developments in areas near the fringes of urban development while avoiding unreasonable restrictions on farming or ranching operations. Uses that support rural character of the broader area shall be allowed including agricultural production, small-scale renewable energy production, home-based businesses, bed and breakfasts, agro-tourism, equestrian and boarding facilities, farmers markets and produce stands. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

**8.6.4.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory, and conditional uses allowed within the within the RUR-R district.

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**8.6.4.3. Dimensional Standards.** The dimensional standards within the RUR-R district are outlined in Table 8-8.

**Table 8-8: Dimensional Standards – RUR-R (Rural Residential).**

| Zoning District | RUR-R |
|---|---|
| Density (# of acres per dwelling unit) | 10 |
| Lot width (minimum, feet) | 100 |
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 24 |

### 8.6.5. Residential Fringe (RES-F).

**8.6.5.1. Purpose.** The purpose of the Residential Fringe (RES-F) district is to designate areas suitable for a combination of estate-type residential development, smaller-scale agricultural uses, ranchettes and other compatible uses. The RES-F district provides an intermediate step in single family residential development between open space and/or agricultural/ranching lands, and typically suburban residential densities. The RES-F district may be comprised of a variety of residential lot sizes, clustered housing and community open space and can include limited agricultural use accessory to residential uses. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

**8.6.5.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the RES-F district.

**8.6.5.3. Dimensional Standards.** The dimensional standards within the RES-F district are outlined in Table 8-9.

**Table 8-9: Dimensional Standards – RES-F (Residential Fringe).**

| Zoning District | RES-F |
|---|---|
| Density (# of acres per dwelling unit) | 5 |
| Lot width (minimum, feet) | 100 |
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 24 |

### 8.6.6. Residential Estate (RES-E).

**8.6.6.1. Purpose.** The purpose of the Residential Estate (RES-E) district is to designate areas suitable for a combination of large-lot and suburban-type residential development, ranchettes and other compatible uses. The RES-E district supports single-family homes on medium sized lots consistent with contemporary community development. Generally this district applies to low to medium density residential development in established neighborhoods (lands that are already committed to residential uses and have been subdivided for a specific development) and undeveloped or underdeveloped areas with a moderate to high development suitability. This category may include limited agricultural use accessory to residential uses. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

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**8.6.6.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the RES-E district.

**8.6.6.3. Dimensional Standards.** The dimensional standards within the RES-E district are outlined in Table 8-10.

**Table 8-10: Dimensional Standards – RES-E (Residential Estate).**

| Zoning District | RES-E |
|---|---|
| Density (# of acres per dwelling unit) | 2.5 |
| Frontage (minimum, feet) | 100 |
| Lot width (minimum, feet) | 100 |
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 24 |

### 8.6.7. Residential Community (RES-C).

**8.6.7.1. Purpose.** The purpose of the Residential Community (RES-C) district is to designate areas suitable for suburban-type residential development and other compatible uses. The RES-C district supports single-family homes on relatively small lots consistent with contemporary community development. Generally this district applies to existing medium to higher density residential development in established neighborhoods (lands that are already committed to residential uses and have been subdivided for a specific development) and undeveloped or underdeveloped areas with a moderate to high development suitability. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

**8.6.7.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the RES-C district.

**8.6.7.3. Dimensional Standards.** The dimensional standards within the RES-C district are outlined in Table 8-11.

**Table 8-11: Dimensional Standards – R-1 (Residential).**

| Zoning District | RES-C |
|---|---|
| Density (# of acres per dwelling unit) | 1 |
| Frontage (minimum, feet) | 100 |
| Lot width (minimum, feet) | 100 |
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 24 |

### 8.6.8. Traditional Community (TC).

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**8.6.8.1. Purpose.** The purpose of the Traditional Community (TC) district is to designate areas suitable for residential, small-scale commercial and traditional agricultural uses consistent with the existing development patterns of traditional communities. The TC district accommodates traditional community patterns, preserves historic and cultural landscapes, and protects agricultural uses, including agriculture found in traditional communities with acequia systems, from encroachment by development. Density bonuses and transfers of development rights may be utilized to achieve the purposes of the district. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

**8.6.8.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory, and conditional uses allowed within the within the TC district.

**8.6.8.3. Dimensional Standards.** The dimensional standards within the TC district are outlined in Table 8-12.

**Table 8-12: Dimensional Standards – TC (Traditional Community).**

| Zoning District | TC |
|---|---|
| Density (# of acres per dwelling unit) | 0.75/0.33* |
| Frontage (minimum, feet) | 50 |
| Lot width (minimum, feet) | 50 |
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 24 |
| Maximum building size (commercial) | 2,500 sq. ft. |

* The standard density of one dwelling unit/0.75 acres may be increased to one dwelling unit/0.33 acres if the lot is served by public water and sewer.

## 8.7. NON-RESIDENTIAL ZONING DISTRICTS.

### 8.7.1. Commercial General (CG).

**8.7.1.1. Purpose.** The purpose of the Commercial General (CG) district is to designate areas suitable for general commercial activities such as retail and wholesale sales, offices, repair shops, limited manufacturing, warehouses and indoor and outdoor display of goods. The CG district promotes a broad range of commercial operations and services while ensuring that land uses and development are compatible with surrounding areas.

**8.7.1.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the CG district.

**8.7.1.3. Dimensional Standards.** The dimensional standards within the CG district are outlined in Table 8-13. Multifamily residential development at densities above the base density indicated in Table 8-13 requires the Transfer of Development Rights in accordance with 12.14 of this SLDC.

**8.7.1.4. Review/approval procedures.** All CG developments shall meet the design standards of this section in addition to the applicable standards of Chapter 7. A ~~master site~~conceptual plan shall be required for all phased develoment~~approved~~ in accordance with procedures outlined in Chapter 4.

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**8.7.1.5. Architectural Design Requirements.**

**1.** Buildings 25,000 square feet or less shall be designed with two distinct masses to be defined by four (4) feet change in both vertical and horizontal direction.

**2.** Buildings over 25,000 square feet shall be designed with a minimum of 3 distinct masses to be defined by four (4) feet change in both vertical and horizontal direction. The maximum uninterrupted length of any façade shall be 50 feet.

**Table 8-13: Dimensional Standards – CG (Commercial General).**

| CG Zoning District | CG |
|---|---|
| Density (# acres per dwelling unit) | ~~n/a~~2.5** |
| Multifamily Density with TDRs* | Up to ~~20~~15 |
| Frontage (minimum, feet) | 50 |
| Lot width (minimum, feet) | n/a |
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 48 |
| Lot coverage (maximum, percent) | 80 |

*Multi-Family Residential shall comply with supplemental use standards in Chapter 10.
** Density shall be 1 acre if the surrounding zoning district is RC, or reduced to 0.75 acres if the surrounding zoning district is TC.

**8.7.2. Commercial Neighborhood (CN).**

**8.7.2.1. Purpose.** The purpose of the Commercial Neighborhood (CN) district is to allow for low-rise low-intensity convenience retail and personal services, as well as office uses, that are intended to serve and are in close proximity to individual residential neighborhoods. Generally, the desired location of these commercial areas is at the periphery, focal point, or a major entrance to one or more neighborhoods, along a minor or subdivision collector or higher roadway classification, or along a major access road at the entrance to or in a focal point of a neighborhood. The size of neighborhood commercial districts will typically be between one and twenty contiguous acres.

**8.7.2.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the CN district.

**8.7.2.3. Dimensional Standards.** The dimensional standards within the CN district are outlined in Table 8-14 below. Adjacent to residential zoning districts, setbacks shall be provided consistent with Subsection 7.3.3.

**8.7.2.4. Review/approval procedures.** All CN developments shall meet the design standards of this section in addition to the applicable standards of Chapter 7. A ~~master site~~conceptual plan shall be required for all phased development ~~approved~~ in accordance with procedures outlined in Chapter 4.

**8.7.2.5. Architectural Design Requirements.**

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**1.** Buildings 25,000 square feet or less shall be designed with two distinct masses to be defined by four (4) feet change in both vertical and horizontal direction.

**2.** Buildings over 25,000 square feet shall be designed with a minimum of 3 distinct masses to be defined by four (4) feet change in both vertical and horizontal direction. The maximum uninterrupted length of any façade shall be 50 feet.

**Table 8-14: Dimensional Standards – CN (Commercial Neighborhood).**

| CN Zoning District | CN |
|---|---|
| Density (#acres per dwelling unit) | ~~n/a~~2.5*** |
| Frontage (minimum, feet) | 50 |
| Lot width (minimum, feet) | n/a |
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 24 |
| Lot coverage (maximum, percent) | 80 |
| Maximum building size (aggregate) | 50,000* |
| Maximum size of individual establishments (sq.ft.) | 15,000** |

*Building size may be increased up to 100,000 square feet with the issuance of a conditional use permit.
**Establishment size may be increased up to 30,000 square feet with the issuance of a conditional use permit.
** density shall be 1 acre if the surrounding zoning district is RC, or reduced to 0.75 acres if the surrounding zoning district is TC.

### 8.7.3. Industrial General (I).

**8.7.3.1. Purpose.** The Industrial General (I) district accommodates areas of heavy and concentrated fabrication, manufacturing, access to transportation, and the availability of public services and facilities. These districts provide an environment for industry that is unencumbered by nearby residential or commercial development. Industrial districts shall be located in areas where conflicts with other uses can be minimized to promote orderly transitions and buffers between uses.

**8.7.3.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the I district.

**8.7.3.3. Dimensional Standards.** The dimensional standards within the I district are outlined in Table 8-~~14~~15.

**8.7.3.4. Review/approval procedures.** All I developments shall meet the design standards of this section in addition to the applicable standards of Chapter 7. A ~~master site~~conceptual plan shall be required for all phased development~~approved~~.

**8.7.3.5. Base Density.** Development at levels above the base standards identified in Table 8-15, requires the Transfer of Development Rights in accordance with 12.14 of this SLDC.

**Table 8-15: Dimensional Standards – I (Industrial).**

| I Zoning District | ~~I~~Base | With TDRs |
|---|---|---|

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| | | |
|---|---|---|
| ~~Density (maximum, dwelling units/acre)~~ | ~~n/a~~ | |
| Frontage (minimum, feet) | 50 | 25 |
| Lot width (minimum, feet) | ~~n/a~~50 | 25 |
| ~~Lot width (maximum, feet)~~ | ~~n/a~~ | |
| Height (maximum, feet) | ~~50~~36 | 50 |
| Lot coverage (maximum, percent) | ~~70~~60% | 80% |

**8.7.4. Industrial Light (IL).**

**8.7.4.1. Purpose.** The Industrial Light (IL) district is to provide for wholesale and warehousing uses for non-hazardous materials as well as those industrial uses that include fabrication, manufacturing, assembly or processing of materials that are in a refined form and that do not in their transformation create smoke, gas, dust, noise, soot or lighting to a degree that is offensive when measured at the property line of subject property. This district also provides for research and development activities, mixed commercial and IL support services including offices, restaurants, call centers, etc.

**8.7.4.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the IL district.

**8.7.4.3. Dimensional Standards.** The dimensional standards within the IL district are outlined in Table 8-~~14~~16.

**8.7.4.4. Review/approval procedures.** All I developments shall meet the design standards of this section in addition to the applicable standards of Chapter 7. A conceptual plan shall be required for all phased development.

**8.7.4.5. Base Density.** Development at levels above the base standards identified in Table 8-16, requires the Transfer of Development Rights in accordance with 12.14 of this SLDC.

**Table 8-16: Dimensional Standards – IL (Industrial Light).**

| Zoning District | Base | With TDRs |
|---|---|---|
| Frontage (minimum, feet) | 50 | 25 |
| Lot width (minimum, feet) | 50 | 25 |
| Height (maximum, feet) | 27 | 40 |
| Lot coverage (maximum, percent) | 60% | 80% |

## 8.8 PUBLIC/INSTITUTIONAL ZONING DISTRICT.

**8.8.1. Purpose.** The purpose of the Public/Institutional (PI) district is to accommodate governmental, educational, and non-profit or institutional uses, including public or community parks and recreation facilities, and public, non-profit, and institutional residential uses, but excluding any such uses of an extensive heavy industrial character.

**8.8.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the PI district.

**8.8.3. Dimensional Standards.** The dimensional standards within the PI district are outlined in Table 8-~~15~~ 17below.

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**8.8.4. Review/approval procedures.** All PI developments must meet the design standards of this section in addition to the applicable standards of Chapter 7. A ~~master site~~conceptual plan shall be required for all phased development~~approved~~ in accordance with procedures outlined in Chapter 4.

**Table 8-~~16~~ 17 Dimensional Standards – PI (Public/Institutional)**

| PI Zoning District | ~~CN~~P/I |
|---|---|
| **Density** | ~~n/a (2)~~2.5* |
| **Frontage (minimum, feet)** | 40 |
| **Lot width (minimum, feet)** | n/a |
| **Lot width (maximum, feet)** | n/a |
| **Height (maximum, feet)** | 48 |
| **Lot coverage (maximum, percent)** | 80 |

*density shall be 1 acre if the surrounding zoning district is RC, or reduced to 0.75 acres if the surrounding zoning district is TC.

**8.8.5. Side and Rear Setbacks.** For buildings in the PI district that are over 12 feet in height, side and rear setbacks adjacent to any A/R, RUR, RUR-F, RUR-R, RES-F, RES-E, R-C, or TC districts, and any predominantly single-family detached or attached dwelling districts or sub-districts in areas subject to community district zoning, as well as any existing or approved development consisting of predominantly single-family detached dwellings or 1- or 2-story duplex or single-family detached dwellings in MU or PDD districts, are ~~outlines~~ outlined in Table 8-~~16~~ 17a below.

**Table 8-17a Side and Rear Setbacks – PI (Public/Institutional)**

| Building Height | Minimum Side and Rear Setbacks |
|---|---|
| Greater than 12 but less than or equal to 24 feet | 40 feet |
| Greater than 24 but less than or equal to 36 feet | 100 feet |
| Greater than 36 but less than or equal to 48 feet | 150 feet |

## 8.9. MIXED USE ZONING DISTRICT (MU).

**8.9.1. Purpose.** The Mixed Use (MU) district provides for areas of compact development with primarily residential and some commercial uses. The MU district provides a full range of housing choices and promotes a sense of community, vitality, and adequate facilities and services. The purpose of the MU designation is to accommodate compact communities, which typically have public gathering places or community facilities with a mix of associated land use such as residential and neighborhood-scale retail, small businesses, and local commercial uses. Community facilities may include schools, post offices, community centers, and recreational facilities, multi-modal transportation facilities that promote bicycling, equestrian activities, park and ride, and transit.

**8.9.2. Applicability.** The MU district requires residential uses and allows commercial, retail, recreational, community and employment uses. A variety of housing types are allowed in this district, including duplexes, multi-family and single family. A housing density bonus is given (as shown in Table 8-17) if at least 10% of the developed square footage within the MU district is allocated to commercial/retail use intended to serve the local community.

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**8.9.3. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the MU district.

**8.9.4. Base Density.** The base density permitted in the MU zone is one (1) dwelling unit per acre for residential use. A minimum of ten percent (10%) nonresidential development is required with a maximum of 15% non-residential development allowed. Development at densities above the base density requires the Transfer of Development Rights in accordance with 12.14 of this SLDC.

**8.9.4. Dimensional Standards.** The dimensional standards within the MU district are outlined in Table 8-18.

**8.9.6. Review/approval procedures.** All MU developments must meet the design standards of this section in addition to the applicable standards of Chapter 7. A conceptual plan shall be required for all phased development in accordance with procedures outlined in Chapter 4.

**Table 8-18: Dimensional Standards – MU (Mixed Use).**

| **MU Zoning District** | **~~If residential uses only~~Base** | **~~If at least 10% commercial use~~With TDRs** |
|---|---|---|
| Density (~~minimum/maximum,~~Number of dwelling units~~/~~ per acre) | ~~2/5~~1 | ~~2/12~~20 |
| Non-Residential (Min required, percent/Max permitted, percent) | 10/15 | 5/50 |
| ~~**Multi-Family Residential Density***~~ | ~~15~~ | ~~20~~ |
| Frontage (minimum, feet) | 50 | ~~50~~25 |
| Lot width (minimum, feet) | 50 | ~~50~~25 |
| ~~Lot width (maximum, feet)~~ | ~~n/a~~ | ~~n/a~~ |
| Height (maximum, feet) | ~~36~~27 | 48 |
| Lot coverage (maximum, percent) | ~~60~~40% | ~~70~~80% |
| Setback where existing residential uses adjoin property (ft) | 50 | 50 |
| Setback where existing residential uses adjoin property (ft) | 100 | 100 |
| Setback from adjoining community district (ft) | 1000 | 1000 |

~~*Multi-Family Residential shall comply with supplemental use standards in Chapter 10.~~

**8.9.~~5~~7. Design requirements.** The following requirements apply to all development within an MU zone. Where the following standards are silent with respect to a particular criterion, the applicable section of the SLDC shall apply.

**8.9.~~5~~7.1. Site Planning.** Mixed use developments shall adhere to all of the following site planning performance standards:

**1.** Safe ingress and egress, and adequate pedestrian and vehicular circulation;

**2.** Integrated circulation of roads, walkways and trails both within and external to the development;

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**3.** Adequate stacking or vehicle queuing room at driveways and road intersections may be required, based on engineered traffic studies and calculations;

**4.** Shared access and circulation to minimize vehicular curb cuts or road approaches;

**5.** Off-site traffic controls, devices, or improvements, including traffic lights, intersection improvements, and/or turning lanes.

**6.** Outside storage shall be screened from view from public roads and neighboring properties;

**7.** Service vehicle accesses and parking areas shall be separated from customer parking and circulation; and

**8.** Duplex and multifamily structures shall be designed to orient to public or private roads and to provide pedestrian and vehicular connections to existing nearby amenities and neighborhoods. Each building shall be provided with direct pedestrian access from a road or drive fronting the building and from established parking areas.

**8.9.~~5~~7.2. Services.** Mixed-use developments shall at a minimum include public water and wastewater, garbage and recycling pickup, walkways and parking area lighting. In addition, the following performance standards shall be met:

**1.** Adequate safe pedestrian walkways shall be established within the development;

**2.** Street lighting shall be provided along walkways adjacent to and within the development;

**3.** Security lighting shall be provided in parking and designated outdoor recreation areas;

**4.** Garbage, maintenance, and recycling facilities shall be screened; and

**5.** Pedestrian connections to adjacent development shall be provided, in public rights-of-way, or along designated trail corridors.

**8.9.7.3. Open Space.** A minimum of 30% Open Space is required in a MU District. Developed parks shall be in accordance with Section 8.10.3.

**1.** The following property may be considered open space for the purpose of meeting the 30 percent requirement:

**a.** Open space identified on the Zoning Map shall be public open space;

**b.** Common or Public Parks and Plazas;

**c.** Trails allowing public access and connecting to County trails;

**d.** Public trailheads;

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**e.** Archaeological easements;

**f.** Setbacks required by this section or other Ordinances; or

**g.** Open space shall be dedicated or reserved on the final plat.

**2.** Open space may be dedicated on property not contiguous to the area for which the applicant is seeking subdivision approval where all of the following circumstances exist:

**a.** Open space adjacent to or within the proposed development is not feasible or has already been dedicated as part of another development phase;

**b.** The continuous property is within property designated as open space on the Zoning Map; and

**c.** The proposed open space dedication is contiguous to other lands dedicated as open space

**3.** Required open space may not be used for a density bonus or as a sending area for TDRs.

**8.9.~~5~~7.~~3~~4. Play Space.** Usable open space and recreation areas shall be required within duplex and multifamily residential developments, as follows:

**1.** Duplex and multifamily residential projects comprised of five (5) or more dwelling units that are anticipated by their unit type and design to accommodate families shall provide a safe play space for children. Projects that are established solely for the occupancy of adults shall not be required to establish play spaces.

**2.** The provision of usable open space, play spaces, and/or recreational spaces within duplex or multifamily developments of five (5) or more units may be phased concurrent with an approved phasing plan; provided, that each phase shall include usable open space and play spaces (if required) established in proportion to the size and impacts of each phase.

**8.9.~~5~~7.~~4~~5. Landscaping.** Landscaping shall demonstrate compliance with the following performance standards:

**1.** Landscaping areas between public roads and parking shall be provided;

**2.** Outside storage areas shall be screened from view from public roads and neighboring properties.

**3.** Landscaping areas shall be provided as a buffer to adjacent residential uses or neighborhoods.

**8.9.~~5~~7.~~5~~6. Off-road Parking.** Off-road parking shall comply with the following performance standards:

**1.** The number of access points from parking areas to public roads shall be minimized or shall be shared (where possible) within a development.

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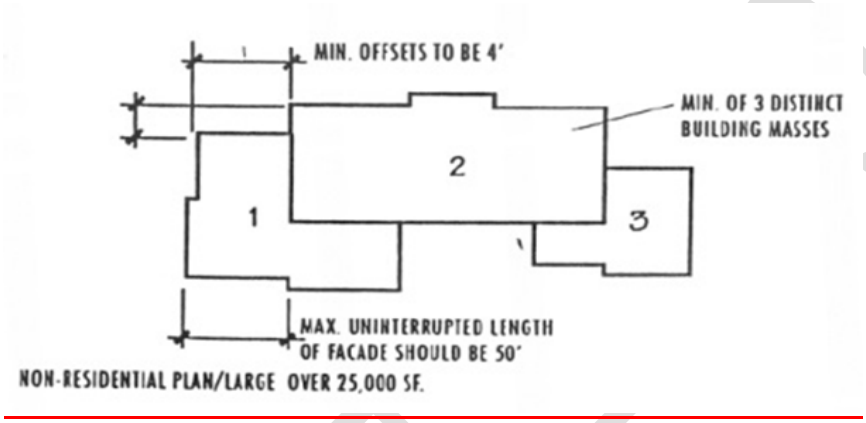
**2.** Parking areas shall include landscaping, fencing and/or berming when abutting residential zoning districts.

**8.9.~~5~~7.~~6~~7. Architectural Design Requirements.**

**1.** Buildings 25,000 square feet or less shall be designed with two distinct masses to be defined by four (4) feet change in both vertical and horizontal direction.

**2.** Buildings over 25,000 square feet shall be designed with a minimum of 3 distinct masses to be defined by four (4) feet change in both vertical and horizontal direction. The maximum uninterrupted length of any façade shall be 50 feet.

**Figure 8-1 Architectural Design Example**




## 8.10. PLANNED DEVELOPMENT ZONING DISTRICTS.

**8.10.1. Generally.** A planned development district is a flexible zoning tool intended to provide for efficient land uses, buildings, circulation systems, and infrastructure in order to: promote a sense of place and aesthetic design; increase walkability; allow for a mixing of uses; reduce the cost of infrastructure and services; reduce vehicle miles traveled; and reduce air pollution and greenhouse gas emissions. A planned development district may be generic in nature and intent, or it may be of a special type that incentivizes certain kinds of development (e.g., neighborhood, regional commercial, transit-oriented, office) or protection of valuable natural resources. This section provides the processes and procedures for establishment of a standard Planned Development (PD), and includes additional standards and modifications for establishing special types of planned developments including Planned Traditional Neighborhood Developments, Planned Neighborhood Centers, Planned Regional Centers, Planned Campus/Opportunity Centers, Planned Transit Oriented Developments, and Planned Conservation Subdivisions.

**8.10.2. Planned Development District (PD).**

**8.10.2.1. Purpose and findings**. Planned Development (PD) districts are established to:

**1.** Provide flexibility in the planning and construction of development projects by allowing a combination of uses developed in accordance with an approved plan that protects adjacent properties;

**2.** Provide an environment within the layout of a site that contributes to a sense of community and a coherent living style;

**3.** Encourage the preservation and enhancement of natural amenities and cultural resources; to protect the natural features of a site that relate to its topography, shape, and size; and to provide for a minimum amount of open space;

**4.** Provide for a more efficient arrangement of land uses, buildings, circulation systems, and infrastructure; and

**5.** Encourage infill projects and the development of sites made difficult for conventionally designed development because of shape, size, abutting development, poor accessibility, or topography.

**6.** Recognize approved master plans that are in effect upon the effective date of both the SLDC and the Zoning Map.

**8.10.2.2. Application.** Every application for creation of a PD zoning shall be accompanied by a ~~master site~~conceptual plan, a rezoning request if applicable and any concurrent preliminary subdivision plat, where applicable.

**8.10.2.3. Review/approval procedures.** All PD developments must meet the design standards of this section in addition to the applicable standards of Chapter 7. A conceptual plan shall be required for all phased development in accordance with procedures outlined in Chapter 4.

**8.10.2.~~3~~4. Criteria.** In order to foster the attractiveness of a PD district and its surrounding neighborhoods, preserve property values, provide an efficient road and utility network, ensure the movement of traffic, implement comprehensive planning, and better serve the public health, safety, and general welfare, the following criteria shall apply to the required ~~master site~~conceptual plan. These criteria shall neither be regarded as inflexible requirements nor are they intended to discourage creativity or innovation:

**1.** Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil removal;

**2.** Proposed buildings shall be sited harmoniously to the terrain and to other buildings in the vicinity that have a visual relationship to the proposed buildings;

**3.** With respect to vehicular and pedestrian circulation and parking, special attention shall be given to the location and number of access points to public roads, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and the arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of proposed structures and neighboring properties; and

**4.** Private roads and gates may be approved as part of the application but are not required.

**8.10.2.4. Minimum Size.** The minimum size for a PD district is five acres.

**Table 8-19: Dimensional Standards – PD (Planned Development).**

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| PD Zoning District | ~~If residential uses only~~Base | ~~If at least 10% commercial use~~With TDRs |
|---|---|---|
| Density ~~(minimum/maximum,~~ dwelling units/acre) | ~~2/5~~1 | ~~2/12~~ 20 |
| ~~Multi-Family Residential Density*~~ | ~~15~~ | ~~20~~ |
| Non-residential (Min required, percent/Max permitted, percent) | 5/15 | 0/50 |
| Frontage (minimum, feet) | 50 | ~~50~~25 |
| Lot width (minimum, feet) | 50 | ~~50~~25 |
| ~~Lot width (maximum, feet)~~ | ~~n/a~~ | ~~n/a~~ |
| Height (maximum, feet) | ~~36~~27 | 48 |
| Lot coverage (maximum, percent) | ~~60~~40% | ~~70~~80% |
| Setback from outside property boundary – no existing residential uses adjoining property | 50 | 50 |
| Setback from outside property boundary – existing residential uses adjoining property | 100 | 100 |

~~*Multi-Family Residential shall comply with supplemental use standards in Chapter 10.~~

**8.10.2.5. Permitted Uses and Density.**

**1. Uses.** A PD district may include residential, commercial, and industrial uses; cluster housing; common areas; unusual arrangements of structures on site; or other combinations of structures and uses that depart from standard development. The uses permitted in a PD district are those designated in the approved ~~master site~~conceptual plan. Density limits are used to determine the maximum number of permitted dwelling units.

**2. Base Density.** The base density permitted in the PD zone is one (1) dwelling unit per acre for residential use. A minimum of five percent (5%) nonresidential development is required with a maximum of 15% nonresidential development allowed. Development at densities above the base density requires the Transfer of Development Rights in accordance with 12.14 of this SLDC.

**~~2~~3. Dimensional Standards.** The dimensional standards within the PD district are outlined in Table 8-19~~8~~.

~~**3. Density Table.** As shown on Table 8-18, the master site plan shall divide the PD district into land use categories and shall indicate the uses permitted in each category.~~

**4. Lots.** As shown on Table 8-~~18~~19, there is no minimum area requirement for lots, and lots do not need to front onto a road. Lot boundaries may coincide with structure boundaries except where perimeter lot setbacks are required.

**8.10.2.6. Height and Yard Requirements.** Setbacks shall be governed by the PD ~~master site~~conceptual plan and the Setback Table in Chapter 7. Lots located on the perimeter of a PD district shall adhere to the minimum and maximum setback requirements of the base zoning district set forth in the Setback Table in Chapter 7 unless a lesser setback is approved in the master site plan. There are no setbacks for interior lots, provided that the requirements of the New Mexico Building Code are met.

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**8.10.2.7. Infrastructure Requirements.** Publicly owned and/or maintained utilities shall be placed in public roads or easements that are a minimum of 16 feet in width unless a narrower width is approved by the applicable utility. Dead-end easements shall not be permitted unless an approved vehicular turnaround is provided at the end of each such easement.

**8.10.2.8. Open Space.** A minimum of 30% Open Space is required in a PD District. Developed parks shall be in accordance with Section 8.10.3.

**1.** The following property may be considered open space for the purpose of meeting the 30 percent requirement:

**a.** Open space identified on the Zoning Map shall be public open space;

**b.** Common or Public Parks and Plazas;

**c.** Trails allowing public access and connecting to County trails;

**d.** Public trailheads;

**e.** Archaeological easements;

**f.** Setbacks required by this section or other Ordinances; or

**g.** Open space shall be dedicated or reserved on the final plat.

**2.** Open space may be dedicated on property not contiguous to the area for which the applicant is seeking subdivision approval where all of the following circumstances exist:

**a.** Open space adjacent to or within the proposed development is not feasible or has already been dedicated as part of another development phase;

**b.** The continuous property is within property designated as open space on the Zoning Map; and

**c.** The proposed open space dedication is contiguous to other lands dedicated as open space

**3.** Required open space may not be used for a density bonus or as a sending area for TDRs.

~~**8.10.2.8. Parks/Open Space.** Each master site plan shall provide for a minimum amount of parks/open space as required by Table 8-19.~~

~~**Table 8-19: Planned Development: Parks and open space requirements.**~~

| ~~**Land Use Category**~~ | ~~**Required Parks/Open Space***~~ |
|---|---|
| ~~Residential~~ | ~~2,500 SF per dwelling unit~~ |

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| | |
|---|---|
| ~~Nonresidential~~ | ~~200 SF per 1,000 SF of floor area, and 250 SF per 1,000 SF of parking and loading area~~ |

~~*Total required parks/open space is calculated by dividing the total open space within a PD district by the gross site area. The land use category shall be determined by the base zoning district.~~

~~**8.10.2.9. Reduction in Parks/Open Space.** The Planning Commission may approve a decrease of no more than 50% in the amount of required parks/open space when the master plan includes design features or amenities such as, terraces, sculptures, water features, preservation and enhancement of unusual natural features, or landscape sculpture.~~

**8.10.3 Planned District Santa Fe Community College District ~~(Ordinance 2000-12).~~**

**8.10.3.1. Purpose and Intent.** The Community College District (CCD) is a planned development district as is intended to promote and focus compact, mixed-use development in a village land use pattern in the large county area south of the city of Santa Fe. It is a major employment, education and cultural center serving the city, county and other regional areas; and, its presence has led to the development of related public and institutional uses including churches and other educational institutions, which are integral to the creation of "community" and historically have been uses around which new communities and settlements have successfully developed.

The CCD was created to curb sprawl, maximize infrastructure efficiency and preserve open space in an area of Santa Fe County under substantial development pressure, and to otherwise to implement the vision, goals and principals of the CCD Plan. The CCD is expected to be the first of a number of new communities to be developed outside the urban area over the next 20 years.

The CCD Plan calls for New Community Centers, Neighborhood Centers and Employment Centers. These centers should be active places with identities and ambiance that attract people. They shall have a mixture of uses that keep them active and the heart of commerce and community activities in the District. Centers should be designed to principles that are different than typical strip commercial. Buildings, plazas, walks, parking and the landscape shall be designed to create centers that will be the focus of community life described in the CCD Plan.

The CCD Plan designates areas for Institutional Campuses. Campuses shall be anchored by an educational, large-scale non-profit, vocational, research or similar institution that desires a campus setting. In all Campuses, the first phase of the anchor institution must be built prior to or in conjunction with all other buildings. Commercial and residential uses support the anchor institution and its users, but are subordinate in design and size. Without the anchor institution, no other uses are allowed in this zone. Institutional campuses are not intended for large-scale commercial or retail businesses that desire a campus setting; these users may locate in Employment Centers or New Community Centers.

**8.10.3.2 Adoption of CCD Land Systems Map, CCD Circulation Map, CCD Zoning Map and CCD Media Subdistrict Map.** The CCD Land Systems Map, the CCD Circulation Map, the CCD Zoning Map and the CCD Media District Map are hereby adopted and incorporated, by reference, into the Code and attached as Appendix F. The road and trail network shown on the CCD Circulation Map shall be used as a guide for the establishment of the road and trail alignments and transit corridors in the CCD district.

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**8.10.3.3 General**

**1.** The regulations, standards and provisions described herein are specific to the Planned District Community College District. Where conflict arises between SLDC regulations and the community district standards and provisions, the district's standards and provisions shall prevail. However, when the district's standards are silent on an issue that would otherwise be governed by the SLDC or other applicable County codes, the SLDC or those other codes shall prevail.

**2.** All development within the PD-CCD shall follow the procedures set forth in Chapter 4 of this SLDC.

**8.10.3.4. Conceptual Plan.** A conceptual plan is required for multi-phased development within the CCD. The Conceptual Plan shall:

**1.** Define the boundaries of the landscape types and the resulting designation and configuration of Village, Employment Center, Institutional Campus, and Fringe Zones and Open Space;

**2.** Calculate the zoning allowances and requirements including the minimum and maximum number of residential units, the minimum and maximum range of commercial square footage, FAR and the open space and park requirements;

**3.** Establish categories of land uses with sufficient specificity to allow for an analysis of the traffic and other impacts of the proposed uses, within each category;

**4.** Identify the location and general configuration of New Community Centers, Neighborhood Centers, Neighborhoods, Employment Center Zones and Institutional Campus Zones that are included in the Master Plan area. A digitized aerial photograph containing metes and bounds description may be used to establish zone locations;

**5.** Identify the proposed categories of land uses to be developed to demonstrate the mixed-use nature of the development;

**6.** Establish the general road layout and classification of road segments as living-priority, mixed-priority and traffic-priority roads;

**7.** Establish the general trail network and classification as district, village, local or any separate equestrian trails;

**8.** Establish a phasing schedule which details the timing for the proposed development which shall include a general description of each phase of the development, with projected sales and buildout;

**9.** An explanation of how each development phase promotes the mixed-use intent of this Section; a description of the phased development of the on-site infrastructure and the manner in which it is coordinated with development of needed off-site infrastructure to ensure that the standards of the zones and densities of the development required by this Section are achieved; and

**10.** In an Employment Center Zone, an applicant many propose a phase which is not mixed use if:

**a.** the phase following the non-mixed use is a mixed use phase;

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**b.** the proposed use is for a major employer, is not retail, creates a significant number of new jobs and all infrastructure is adequate;

**c.** the proposed non-mixed use phase bear a sufficient connection to the approved, proposed or built residential uses in the same Zone or any adjacent or contiguous Zone such that the overall mixed use intention of this Ordinance will be achieved and the uses in the non-mixed use phase promote and advance the County regional goals for employment and economic development and are compatible and appropriate with principles of the CCD and meet the requirements of the Land Use Table.

**11.** The minimum area which must be included in a conceptual plan shall be an entire Village Zone, Employment Center Zone or Institutional Campus Zone, or that portion of such zone owned by the applicant.

**8.10.3.5. Conceptual Plan Review Criteria**. The criteria for approval of a Conceptual Plan in the CCD are as follows:

**1.** Conformance to the Sustainable Growth Management Plan as amended by the Community College District Plan;

**2.** Viability of the proposed phases of the project to function as completed developments in the case that subsequent phases of the project are not approved or completed; and

**3.** Conformance to the this section 8.10 and other applicable law and ordinances in effect at the time of consideration, including required improvements, proposed roads and trails, community facilities, design and or construction standards, and open space standards.

**8.10.3.6. Land System.** The location of land system boundaries shall be indicated on a digital or photo topographic map; a boundary survey is not required. Landscape classification boundaries and the location of subdistrict boundaries shall be established at the time Conceptual Plans are approved. Thereafter, such boundaries may be modified as new information becomes available as the project moved forward for final approval or final plat approval. The location of subdistricts within the CCD district is based on the land types shown on the Land System Map. This criteria is intended to establish a balance between preservation on the natural landscape and creation of concentrations of development that are adequate to create a vital community. The following landscape types are identified:

**1. Mountains.** Mountains open space begins at the 15 percent slope line at the base of the mountains and extend to the top.

**2. Flatland/Grasslands.** Upper flatland/ grasslands are open level areas that are elevated above arroyos and covered by grass and sparse tree cover. The edges of these areas are delineated by sharp breaks in the topography that slope down to the arroyo corridors. Tree edges often correspond to the topographic breaks. In the absence of breaks in topography the edges of upper flatland/grasslands will occur along the line where slopes exceed 10 percent.

**3. Flatlands/ Piñon Juniper.** Upper flatland/piñon juniper are open level areas that are elevated above arroyos and covered by piñon and juniper. The edges of

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these areas are delineated by sharp breaks in the topography that slope down to the arroyo corridors. Tree edges often correspond to the topographic breaks. In the absence of breaks in topography the edge of upper flatland/ piñon juniper will occur along the line where slopes exceed 10 percent.

**4. Hillside/ Piñon Juniper.** The hillside/piñon juniper land type includes the wooded hillsides that transition between the upper flatland areas and the arroyo corridor edges. They are delineated on the uphill side by the slope break or the 10 percent slope line that establishes the edge of the upper flatland land type. The downhill side is defined by the topographic break of the 10 percent slope line that delineates the arroyo corridor.

**5. Hillside/Grasslands.** The hillsides/grassland land type includes the grassy hillsides that slope between the upper flatland areas and the arroyo corridor edges. They are delineated on the uphill side by the slope break or the 10 percent slope line that establishes the edge of the upper flatland land type. The downhill side is defined by the topographic break or the 10 percent slope line that delineates the arroyo corridor.

**6. Arroyo Corridors.** Arroyo corridors are arroyos and the adjacent level areas that together form the level bottoms of the major drainage ways that pass through the district. Arroyo corridors extend on both sides of arroyos to the point that there is a distinct slope break between from the arroyo corridor and the adjacent hillside. If no distinct slope break exists the arroyo corridor shall be delineated by the 5 percent slope line at the base of the adjacent hillsides.

**7. Arroyo Hondo Corridor.** The arroyo hondo is a special circumstance because of its broad width and rolling terrain without a clear slope break between the arroyo bottom and the adjacent hillsides. The arroyo corridor in this area extends a minimum of 50 feet outside of the 100-year floodplain boundary.

**8.10.3.7. District Development Standards.** The development standards of Chapter 7 of this Code shall be applicable to all development, except as otherwise specified herein.

**1. Off-site Improvements.** The County may require developers, as a condition of approval, to enter into a development agreement pursuant to which the developer shall be required to pay a pro-rata share of future off-site improvements.

**2. Development Performance Standards.**

**a. Building Design.** Buildings of 15.000 sq ft or larger shall comply with the following:

**i.** Buildings of 15,000 sq ft to 24,000 sq ft shall be designed with a minimum of three distinct masses with four foot vertical and horizontal offsets.

**ii.** buildings of 25,000 sq ft or larger shall have an additional two feet of vertical and horizontal offsets for each additional 5,000 sq ft of footprint.

**iii.** The maximum uninterrupted length of any façade shall be 50 ft.

**b. Blocks.** The maximum block length shall be 2000 feet.

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**c. Centers and Campuses.** All buildings in centers and campuses shall comply with the following standards:

**i.** Such buildings shall be oriented to street or plaza.

**ii.** Parking and storage areas shall be located to rear and side of buildings.

**d. Middle and High Schools.** Such uses should be located at edge of village subdistricts or the Institutional Campus Subdistrict.

**e. Open Space Village Separators.**

**i.** Within the CCD district open space village separators are intended to accommodate a connective system of open space that will:

**(a)** Provide natural drainage systems, aquifer recharge channels, core wildlife habitat and corridors, important community views, and community recreational amenities;

**(b)** Provide a connective community trails network and community recreational amenities; and

**(c)** Define and buffer development areas.

**ii.** These open space village separators includes the north/ south open space corridors that separate long linear village subdistricts into compact development areas with walkable centers. They are located on Arroyo Corridors and Mountains land types, and adjacent areas already designated as Open Space on plans and plats.

**iii.** The open space village separators shall be a minimum of 1000 feet in width at any point.

**3. Landscaping and Buffering.**

**a.** Buffers and landscaping for road frontages shall be provided as shown on the CCD Zoning Map or on the Road Cross Sections.

**b.** Street trees shall be provided every 500 linear ft. along mixed use and living priority roadways, this number can be reduced by 50% if a tree is provided in the front yard of at last 50% of single family lots accessing the road.

**c.** Residential yards shall be required to use Xeriscape designs incorporating drought-tolerant and native vegetation to the maximum extent possible. Cool season turf will not be permitted. Areas to be used for recreation, parks, playfields, and plazas shall be excluded from this requirement.

**d.** industrial areas shall have installed effluent reuse lines for irrigation of community and commercial landscapes. Subject to acquisition of applicable State and Federal permits, irrigation of such areas shall be converted to non-potable water when a reliable source is available from a

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district wastewater treatment facility that meets all applicable standards and requirements.

**e.** The following buffers shall apply for development within the CCD:

**i.** Buffers from road fontages s\hall be provided in as shown on the CCD Zoning Map;

**ii**. 150 feet from the I-25 ROW line; or, where a frontage road exists, 50 feet from the I-25 Frontage Road ROW line. This setback may be reduced to 25 feet with a landscaped buffer, berm and 4 foot masonry wall to screen parking on parcels where there is double frontage between SR 14 and the I-25 Frontage Road.

**f.** No more than 50 percent of the trees shall be evergreen with the remainder being low water use deciduous shade trees.

**g.** Evergreen trees shall be a minimum of 8 feet tall at time of planting. Deciduous trees shall be a minimum of 1½ inch caliper and 6 feet tall at time of planting.

**4. Parking and Loading.**

**a.** Minimum parking for residential uses shall be as follows:

**i.** For each detached dwelling unit, at least 2 off-street spaces shall be provided; and

**ii.** For each attached or multi family dwelling unit, at least one assigned and 1/4 unassigned off-street spaces shall be provided.

**b.** An applicant may propose a parking budget using shared parking, differential time use, one-stop multiple use, and on-street parking. Diagonal on-street parking may also be approved consistent with pedestrian safety.

**5. Road Design Standards.**

**a. Road Improvements.** A Traffic Impact Analysis (TIA) is required in accordance with Chapter 6. If the TIA shows that the development increases the burden on existing public roadways or generates traffic that will exceed the capacity of an existing or proposed public roadway, the developer shall make such improvements or contribute a fair share of improvements required to increase the capacity of the public roadway to the acceptable level of service.

**b. Road Circulation and Design Standards.** The following standards are applicable to all development in the CCD district:

**i.** Roadway circulation within the CCD district shall provide a network of roads that will integrate automobile traffic, pedestrian and other modes of transportation in a safe and controlled

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manner. Road networks shall be designed in such a way as to discourage high speed traffic.

**ii.** Within each development, roadway circulation shall be interconnected as shown on the Circulation Map. The developer shall be required to construct any portion of the roadway necessary to maintain connectivity throughout the CCD district.

**iii.** No-outlet roadways shall be used only to preserve open space contiguity or in cases that terrain does not allow connectivity. No-outlet roadways shall not exceed 300 feet in length and shall have a minimum 50-foot turn around. If an applicant can show that a particular fringe or rural area is not wide enough to allow more than a single road without negatively affecting open space corridors or terrain, a no-outlet roadway may exceed the 300 foot maximum as determined by the Administrator, but in no case shall exceed 1,000 feet.

**iv.** Roads shall not be gated.

**v.** Roadways shall be laid out to intersect as nearly as possible at right angles.

**vi.** Roadway networks shall be laid out to have the minimum number of intersections with state highways, arterials and traffic priority roads, consistent with sound engineering practice and the access needs for emergency and service vehicles.

**vii.** When 2 roadway categories intersect, the intersection design shall be for the largest road category and shall be consistent with pedestrian safety.

**viii.** Intersections and driveways shall be designed to meet the most current AASHTO standards (American Association of State Highway Transportation Officials, Policy on Geometric Design of Highways and Roads, latest edition) for sight distance. Clear sight triangles required by AASHTO shall be maintained.

**ix.** Minimum distance required between driveways or road intersections are as specified in Table 8-19-1 below:

**Table 8-10-1 Driveway or Intersection Separation**

| DRIVEWAY OR INTERSECTION SEPARATION | |
|---|---|
| **Roadway Classification (1)** | **Minimum Separation (feet)** |
| Living | 75 |
| Mixed | 125 |
| Traffic | 200 |

**x.** The design standards for each class of roadway are the minimum standards. Increased pavement thickness, subgrade or base material, turning lanes, extra width at medians or other

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improvements may be necessary where projected traffic loads, type of traffic (trucks or heavy equipment, etc.) or soil conditions require a higher standard pursuant to AASHTO standards and the Manual on Uniform Traffic Control Devices (MUTCD).

**xi.** When reviewing road designs and circulation plans, the Administrator shall consider whether the development's proposed circulation plan provides adequate overall capacity to meet the intent of the Community College (CCD) District Plan. Design details shall comply with the Institute of Traffic Engineer's Traditional Neighborhood Development: Street Design Guidelines for living priority and mixed priority roads and AASHTO or the Institute of Traffic Engineer's (ITE) Guidelines for Major Urban Street Design for traffic priority roads. Modification to these standards may be considered and approved administratively by the Administrator if sound technical evidence demonstrating effective alternatives is provided. Such evidence shall include but is not limited to engineering designs, drawings, studies and/or specifications.

**c. Construction Standards.** Any and all road construction shall conform to and comply with AASHTO 17 standards, ITE guidelines, New Mexico State Highway and Transportation Department specifications and all applicable National codes. Construction standards shall be according to sound engineering practice as follows:

**i.** Vertical and horizontal curves and the super-elevation of the horizontal curves shall conform to the requirements set forth in the AASHTO Standards.

**ii.** Vertical grade percentages shall not exceed eight percent (8%) for any roadway type. In order to minimize cuts and fills and the cutting of trees on steep and mountainous terrain which can lead to erosion problems and visual scars, the Code Administrator may allow a maximum driveway grade of fifteen percent (15%) with consideration for emergency access and maintenance and consistent with sound engineering practices for difficult terrain.

**iii.** Grades at the approach of intersections shall not exceed five percent (5%) for one hundred lineal feet (100') from the radius return of the intersection, excluding vertical curve distance.

**iv.** No horizontal road grade shall be less than one percent (1%).

**v.** Soil classification and subgrade conditions shall determine the base course thickness required. A minimum of six inches (6") of base course shall be required in all cases and more than six inches (6") may be required if soil conditions so indicate. Base course shall be compacted to no less than ninety five percent (95%) of maximum density, according to methods specified by the AASHTO, T-180 modified moisture density test.

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**vi.** Base course and sub-base aggregate shall meet the gradation requirements specified in Table 304, Class I, II or III, NMSHTD "Standard Specifications for Road and Bridge Construction".

**vii.** All mixed priority and traffic priority roads shall be paved. All living priority roads, except lanes, closes and alleys shall be paved. Lanes, closes and alleys shall be, at a minimum, base course. All roadways that require asphalt paving shall be paved to minimum of four inches (4") in depth.

**viii.** There shall be a minimum of three percent (3%) crown in the driving surface for water runoff.

**ix.** Adequate provisions for drainage shall be installed at all waterway crossings. Culverts shall also be sized to accommodate a twenty-five year (25 yr.) storm, with provisions to safely pass a one hundred year (100 yr.) storm. Culverts shall also be of sufficient gauge or thickness and length, and placed appropriately deep to withstand projected traffic loading and storm runoff. Where necessary to accommodate roadside drainage, driveways entering roads shall have eighteen inch (18") minimum diameter culverts installed so as not to impede flowing water. Driveways shall also be designed and constructed so as to prevent flowing water from entering onto or crossing the roadway.

**x.** Adequate road drainage shall be provided as shown in this Section. Notwithstanding other requirements of this Section, the Administrator may require curb and gutter whenever that is the best option for drainage control or to protect the safety of pedestrians and
traffic.

**xi.** Pedestrian sidewalks are required as shown in the above road sections. All sidewalks shall conform to the Americans With Disabilities Act (ADA) Compliance Guide as amended. Notwithstanding other requirements of this Section, the Code Administrator may require sidewalks wherever needed to protect the safety of pedestrians due to the particular characteristics or location of the site. Sidewalks shall be constructed of four inch (4") thick concrete. Other hard surface materials may be used if evidence is shown that the design is coordinated with streetscape and project design. Sidewalks shall not be located on the roadway surface or in a storm drainage.

**xii.** All wet utilities shall be located under the roadway surface. All dry utilities shall be located in the prescribed utility easement or right-of-way, in a shared trench.

**xiii.** Pavement striping is required as shown in the above road sections in accordance with the MUTCD.

**xiv.** On-street parking is allowed as shown in the above road sections.

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**xv.** Curb radii minimum standards are shown in the above road sections. Where necessary, the County Fire Marshal may require that on-street parking, street trees, vertical curbs and other obstructions be restricted from being located on or near intersections with curb return radii of less than 20 feet, in order to allow emergency vehicles to drive over the curb return.

**d. Roadway Classifications.** Roadways within the CCD district are classified in a hierarchy by function and are designed to accommodate the traffic integration and purpose for which the roadway is intended. Various portions of a road may be more than one type of classification in order to respond to surrounding development, topographic and land use context.

**i. Living Priority Roads.** Living Priority Roads are slow speed roads that will comprise the majority of roads in the CCD district, even when high traffic volumes are present. The design priority is for the non-motorist. These roads have low design speeds, tight curb radii and narrow travel lanes to slow traffic speeds. Living priority roads vary greatly in character and are similar to or match "traditional neighborhood" engineering designs as defined by the Institute of Traffic Engineers. Living priority roads are found in the New Community Center, Neighborhood Center, Village Neighborhood, Existing Neighborhoods, Village Fringe, Institutional Campus, Employment Center, and Village Rural subdistricts.

**ii. Mixed Priority Roads.** Mixed Priority Roads are moderate speed roads that serve as transition areas between living priority and traffic priority roads and as internal links from one area to another within each village subdistrict. Design for mixed priority roads shall consider the safety and efficiency of non-motorists and motorists equally. These roads are usually found in Village Separators, but may be used in portions of Employment Center, Institutional Campus, and Village Rural subdistricts to transition between density clusters. Since mixed priority roads are used as transitions, their length does not generally exceed 2,500 feet.

**iii. Traffic Priority Roads.** Traffic Priority Roads are higher speed, long distance through roads primarily for efficient movement of motorists, but non-motorists shall also be safely accommodated. Traffic priority roads link village subdistricts and external regional roadways such as State Highway 14. Buildings do not generally front on traffic priority roads. These roads are usually found in Open Space Subdistrict and Village Separators Subdistrict.

**iv. Road Ownership and Maintenance.** Ownership and maintenance of all roads is to remain the responsibility of the developer, owner or designated Home Owners Association. All roads designated as primary roads identified on the Circulation Map may be conditionally dedicated to Santa Fe County.

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**v. Road Sections.** Road design sections for the CCD district are described below. Other road design options may be approved as long as the minimum standards of the CCD district and the intent of the Community College (CCD) District Plan are met.

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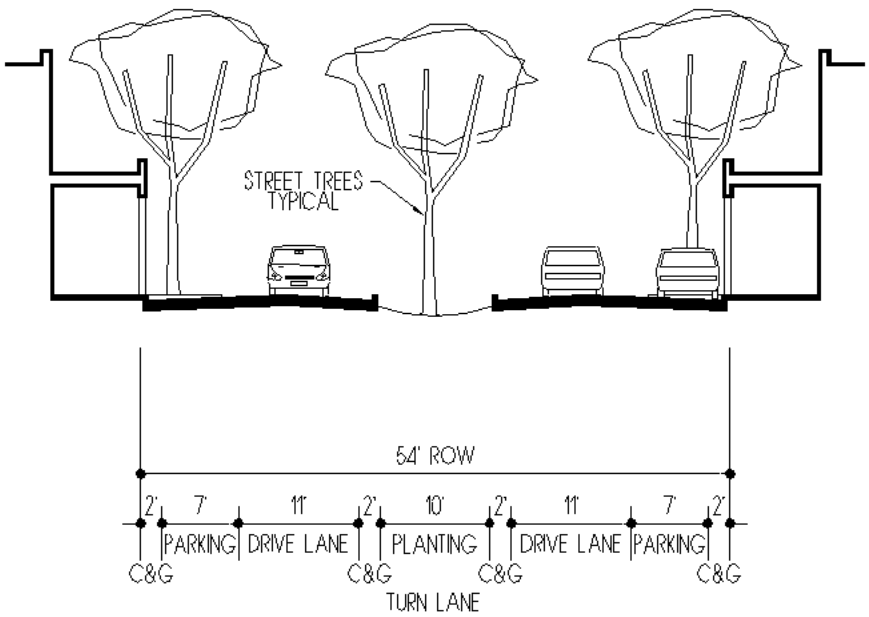
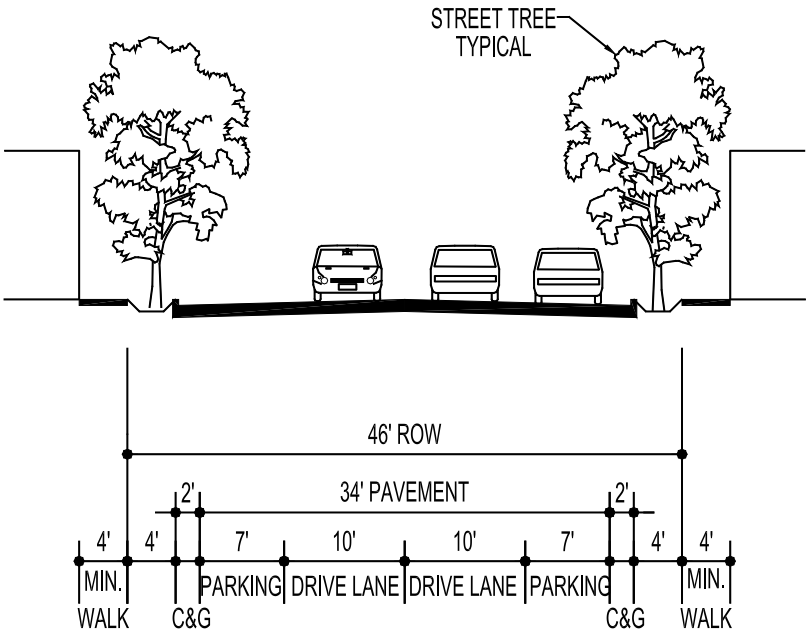
## e. Living Priority Roads Cross Sections.

**i. Main Street.** The main street design is urban in character and may be used for roads that traverse the center of a New Community Center Subdistrict.




| LIVING PRIORITY: MAIN STREET CROSS SECTION | | | | |
|---|---|---|---|---|
| Design Speed | 30 mph | | Bike lanes | No |
| Travel lanes | 2, with center turn lane | | Median | 10 foot minimum |
| Curb Radii | 15 feet | | Drainage | Curb and gutter |
| Striping | Centerline & turn lanes only | | On street parking | Both sides, parallel |
| Sidewalks | Both sides, minimum 6 feet wide | | | |

**ii. Village Street.** This design is urban in character and may be used throughout New Community Center, Neighborhood Center, Employment Center or Institutional Campus Subdistricts.




| ***LIVING PRIORITY: VILLAGE STREET CROSS SECTION*** | | | | |
|---|---|---|---|---|
| Design Speed | 30 mph | | Bike lanes | No |
| Travel lanes | 2 | | Median | No |
| Curb Radii | 15 feet | | Drainage | Curb and gutter |
| Striping | Centerline only | | On street parking | Yes, both sides |
| Sidewalks | Both sides, 4' minimum | | | |

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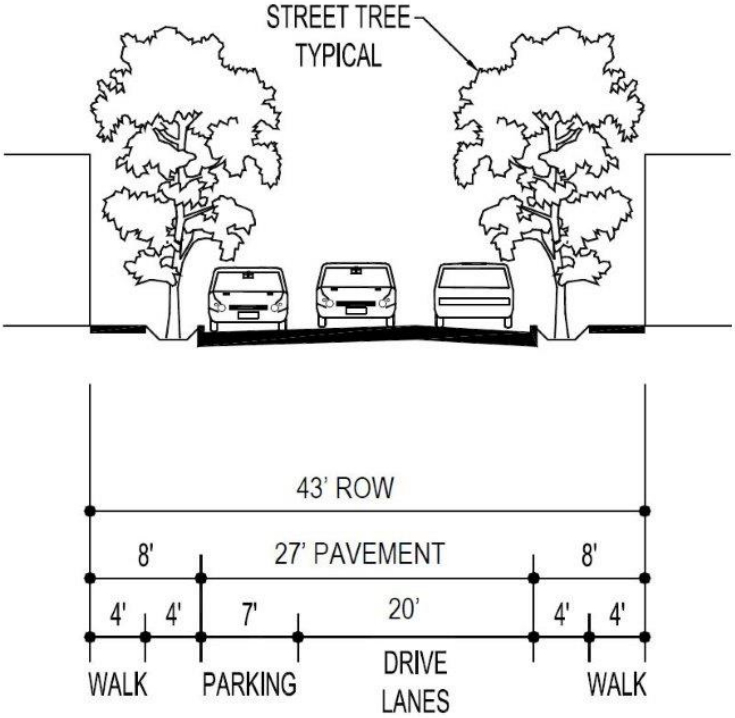
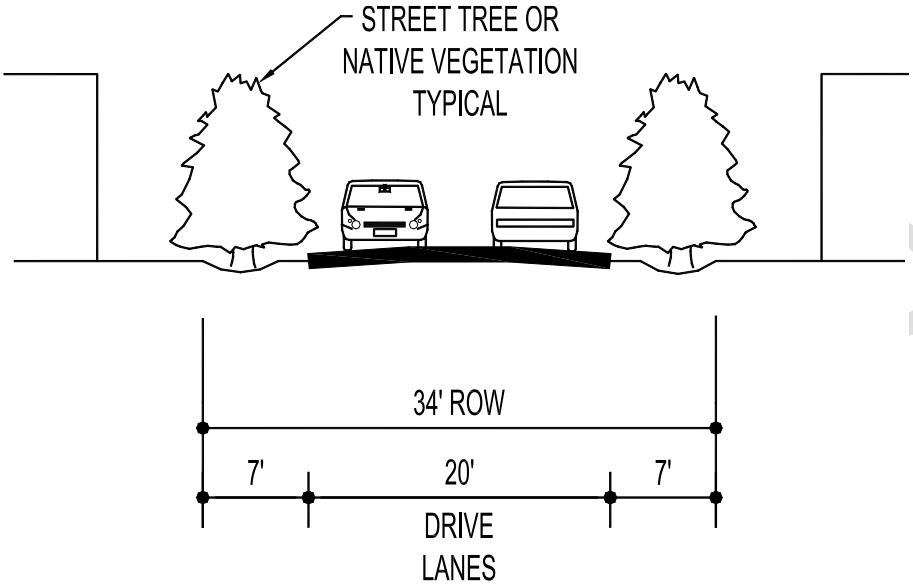
**iii. Neighborhood Street.** This design is typical for Neighborhood or Neighborhood Center Subdistricts; it may be urban or rural in character.



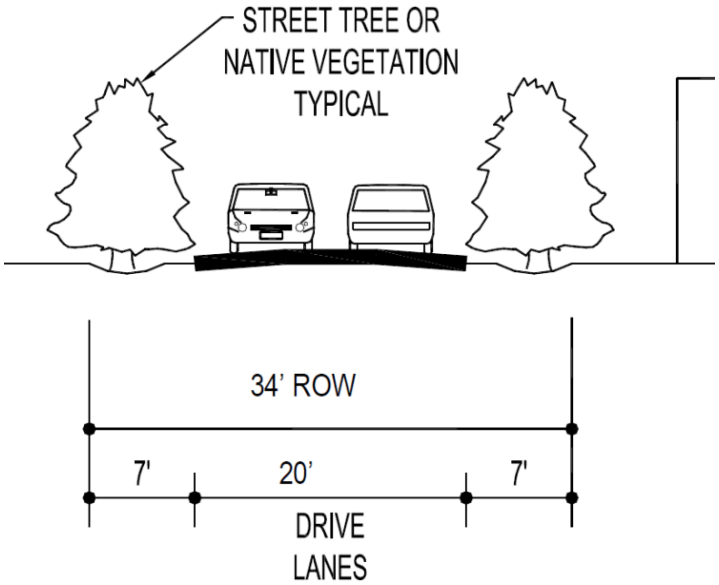

| LIVING PRIORITY: NEIGHBORHOOD STREET | | | | |
|---|---|---|---|---|
| Design Speed | 25 mph | | Bike lanes | No |
| Travel lanes | 2 | | Median | No |
| Curb Radii | 15 feet | | Drainage | Curb and gutter or swale |
| Striping | Centerline | | On street parking | Yes, one or both sides |
| Sidewalks | One or both sides, 4' minimum | | | |

**iv. Lane.** This Section is suitable for low density Neighborhood, Fringe and Rural Subdistricts.




| LIVING PRIORITY: LANE | | | | |
|---|---|---|---|---|
| Design Speed | 25 mph | | Bike lanes | No |
| Travel lanes | 2 | | Median | No |
| Curb Radii | 10 feet | | Drainage | Swale |
| Striping | Centerline only | | On street parking | No |
| Sidewalks | Optional, may be "shared street" | | | |

**v. Close.** This section is designed to be used in all village areas. A close is a road loop, used in place of 2 parallel dead-end roads. A close is typically less than 1,000 feet in total length.




| LIVING PRIORITY: CLOSE | | | |
|---|---|---|---|
| Design Speed | 20 mph | Bike lanes | No |
| Travel lanes | 2 | Median | No |
| Curb Radii | 10 feet | Drainage | Curb and gutter, sales, or inverted crown |
| Striping | No | On street parking | No |
| Sidewalks | No | | |

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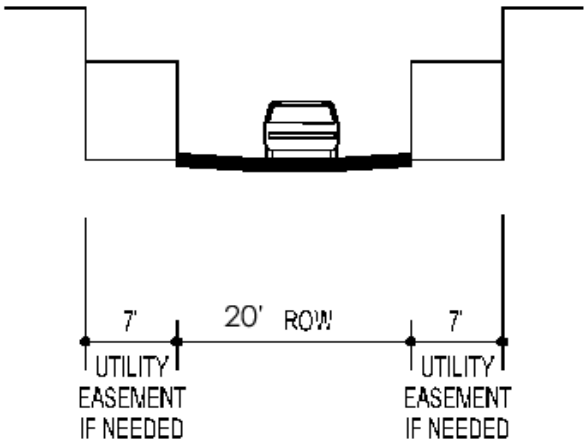
**vi. Alley.** Provides rear access for residential and commercial uses in high density areas such as Village Center, Neighborhood Center, Neighborhood, and Employment Center Subdistricts. Alleys must bisect an entire block "L" type or dead end alleys are not permitted.

Note: a 2-way alley is illustrated below; one-way alleys are also allowed.




| LIVING PRIORITY: ALLEY | | | | |
|---|---|---|---|---|
| Design Speed | 10 mph | | Sidewalks | No |
| Travel lanes | 1-2 | | Bike lanes | No |
| Curb Radii | 10 feet | | Median | No |
| Striping | No | | Drainage | Inverted crown |
| | | | On street parking | No |

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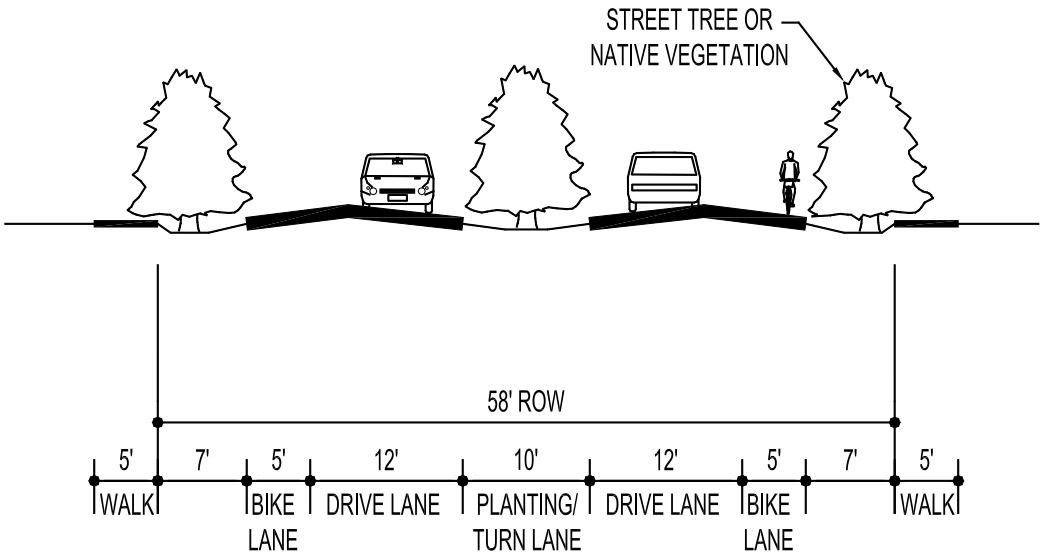
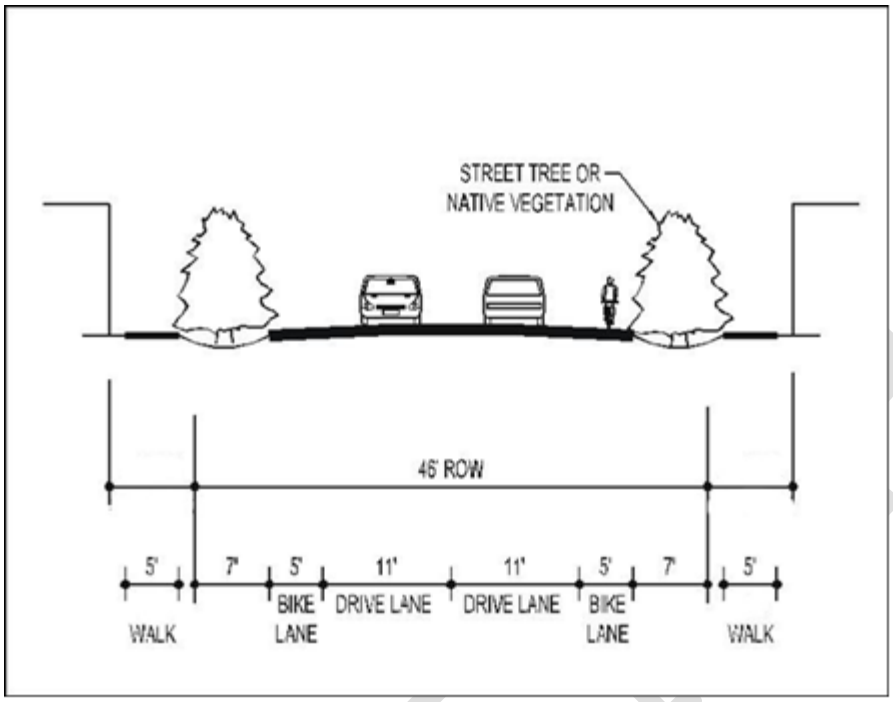
## f. Mixed Priority Road Cross Sections.

**i. Split Rural Connector.** Used in the Village Separator Subdistrict, these roads typically provide views of open space on one or both sides.




| MIXED PRIORITY: SPLIT RURAL CONNECTOR | | | | |
|---|---|---|---|---|
| Design Speed | 30 mph | | Bike lanes | Yes, both sides |
| Travel lanes | 2 w/ center turn lane | | Median | 10 foot minimum |
| Curb Radii | 20 feet | | Drainage | Swales |
| Striping | Edgeline, both sides | | On street parking | No |
| Sidewalks | Yes, both sides | | | |

**ii. Community Road.** This Section may be used to transition between density clusters, in the Institutional Campus and Employment Center Subdistrict. It may also be used to connect one neighborhood to another.

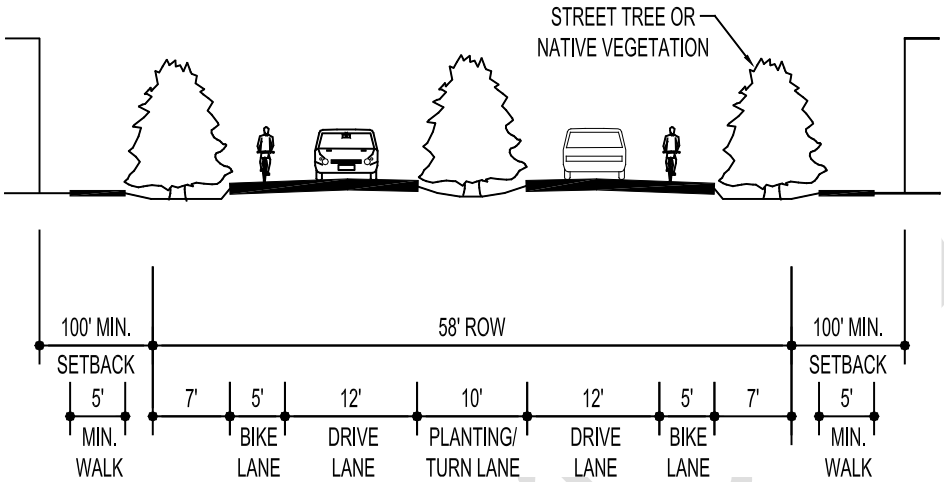



| MIXED PRIORITY: COMMUNITY ROAD | | | | |
|---|---|---|---|---|
| Design Speed | 20 mph | | Bike lanes | Yes |
| Travel lanes | 2 | | Median | Optional* |
| Curb Radii | 15 feet | | Drainage | Curb and gutter or swales |
| Striping | Centerline | | On street parking | Optional* |
| Sidewalks | Yes, one or both sides* | | | |

*May increase right of way width

## g. Traffic Priority Road Cross Sections.

**i. Split Lane Rural Highway.** The preferred design for traffic priority roads, it provides views of open space on both sides of the road.




| Traffic Priority: Split Lane Rural Highway | | | |
|---|---|---|---|
| Design Speed | 40 mph | Bike lanes | Yes |
| Travel lanes | 2 w/ center turn lane | Median | 10 foot minimum |
| Curb Radii | 30 feet | Drainage | Swales |
| Striping | Edgeline, both sides | On street parking | No |
| Sidewalks | Trail, on 1 or 2 sides | | |

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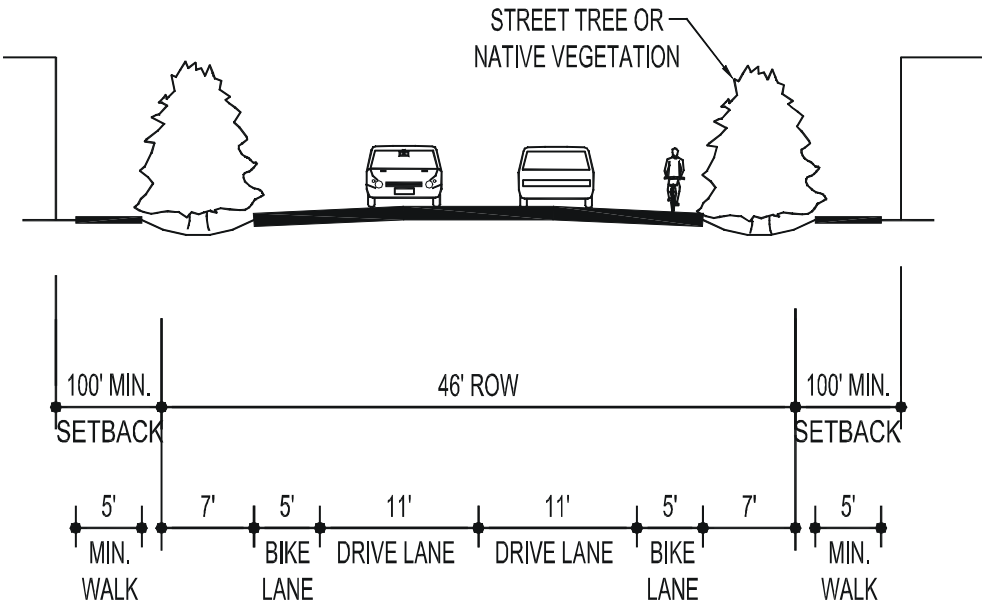
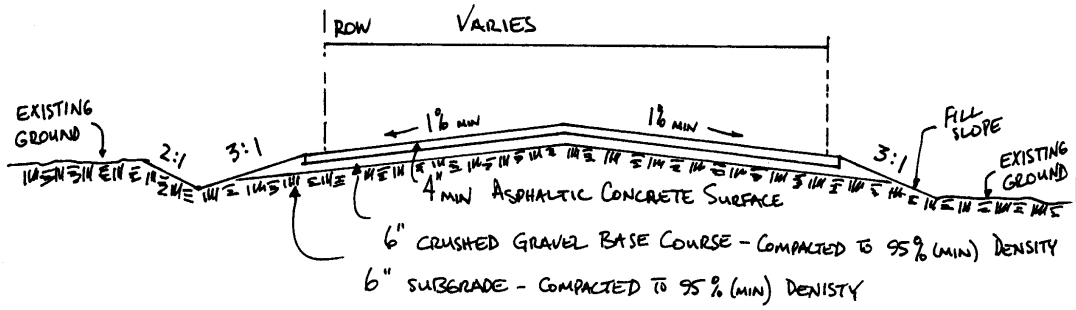
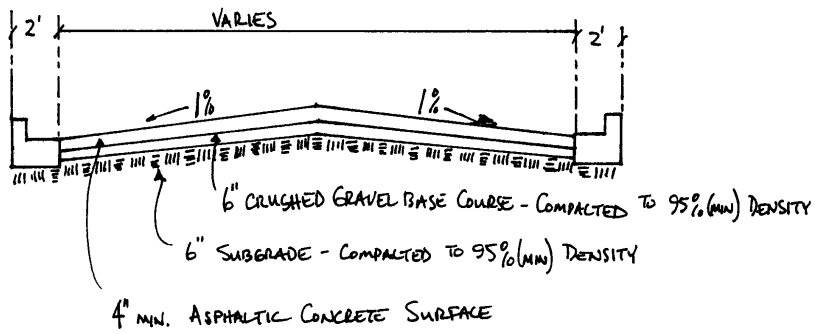
**ii. Village Connector Highway.** Used in areas when a split lane rural highway may not be possible due to steep terrain or the presence of mature vegetation.




| TRAFFIC PRIORITY: VILLAGE CONNECTOR HIGHWAY | | | | |
|---|---|---|---|---|
| Design Speed | 35 mph | | Bike lanes | Yes |
| Travel lanes | 2 | | Median | No |
| Curb Radii | 25 feet | | Drainage | Swales |
| Striping | Yes | | On street parking | No |
| Sidewalks | Trail, on 1 or 2 sides | | | |

**h. Typical Cross sections.**




**6. Open Space.** Subdivisions in the CCD district shall comply with the park and open space requirements of Section 7.15 (Open Space), except as modified in this subsection; provided, however, this section shall not apply in the Existing Neighborhoods Subdistrict.

**a. General.**

**i.** Minimum open space: 50 percent of total land area for development.

**ii.** The following property may be considered open space for the purpose of meeting the 50 percent requirement:

**(a)** Open space identified on the Zoning Map shall be common or public open space;

**(b)** Common or Public Parks and Plazas;

**(c)** Trails allowing public access and connecting to the District Trail System;

**(d)** Public trailheads;

**(e)** Archaeological easements;

**(f)** Setbacks required by this section or other Ordinances; or

**(g)** In village subdistricts, private open space up to 15 percent of total residential floor area shall be counted if it is physically contiguous or separated only by road or trail features from adjacent open space and is not enclosed by fences, walls or other structures.

**iii.** Open space shall be dedicated or reserved on the final plat. Open space may be dedicated on property not contiguous to the area for which the applicant is seeking subdivision approval where all of the following circumstances exist:

**(a)** Open space adjacent to or within the proposed development is not feasible or has already been dedicated as part of another development phase;

**(b)** The continuous property is within property designated as open space on the Zoning Map; and

**(c)** The proposed open space dedication is contiguous to other lands dedicated as open space.

**b. Parks, Plazas and Trails.**

**i. Purpose.** Parks and plazas are intended to provide a variety of recreational facilities and improvements. Trails are intended to provide an equestrian, bicycle, and pedestrian transportation system.

**ii. Applicability.** The park, plaza, and trail standards of this subsection shall apply to all development within the CCD district, except in the Existing Neighborhood Subdistrict.

**iii. General.**

**(a)** Parks, plazas or trails must be dedicated or reserved on the Site Development Plan or Final Plat;

**(b)** Submittal of plans or plats showing the location of parks, plazas, and trails shall be accompanied by the following;

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**(i)** An improvement plan showing trail sections, building materials, and trailhead improvements, and required improvements as set forth in the Park/Plaza Table in this subsection;

**(ii)** A landscaping and irrigation plan; and

**(iii)** A maintenance plan.

**c. Park Categories.**

**i. Plaza.** Plazas are developed community gathering areas, including seating, walks, shade trees and landscaping.

**ii. Community Park.** Community Parks are developed active recreational areas including: open play fields, seating or picnic facilities, walks, and trees. Public-accessible school play fields meeting minimum size requirements may be used to meet this requirement. No night lighting shall be allowed. Such land area should range between 3 and 5 acres. One park is needed for each neighborhood or village subdistrict of up to 1000 dwellings; a larger community park might serve an entire village subdistrict of up to 1500 dwellings.

**iii. Neighborhood Park.** Neighborhood Parks are to be developed quiet activity parks, including toddler play facilities, seating, walks, and trees. Such land area should range from 0.25 to 1.0 acres minimum.

**iv. Passive Park Alternative.** Passive Parks may be provided as an alternative to a Community Park, provided, that passive parks must be a minimum of 10 acres, with 10 percent of the park developed with seating or picnic facilities, walks and shade trees. The developed portion of a park can be an aggregate of several developed areas wit hin the park. Trails are not considered development.

**v. District Park.** District Parks may include, but are not limited to, multi-use play fields, soccer fields, ball fields, parking, and hard courts. Night lighting is allowed. Large scale recreational fields on Institutional Campuses may fulfill this requirement if accessible for public use.

**d. Park and Plaza Standards.** Standards for parks and plazas are set forth in Table 8-19-2 below.

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**Table 8-19-2 Parks and Plaza Standards.**

| PARKS AND PLAZA STANDARDS | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Subdistricts | | | | | | | |
| **Allowable Locations** | **Employment Center Zone** | **Institutional Campus** | **New Community Center** | **Neighborhood Center** | **Neighborhood** | **Village Fringe** | **Village Separators** | **Village Rural** |
| Plaza | Required .33-1.0 Ac. | Required .33-1.0 Ac. | Required .75-1.0 Ac. | Required .33-1.0 Ac. | | | | X |
| Commu-nity Park (1) | X | X | Alter-nate location | Alter-nate location | Req-uired 3-6 Ac. | Alter-nate loca-tion | Alter-nate loca-tion | |
| Neighborhood Park (2) | X | X | X | X | Required .25-1.0 Ac. | | | X |
| Passive Park (3) | X | X | | | X | X | X | X |
| District Park (4) | X | X | | | X | | | |

Notations:
(1) Required, one per neighborhood can be placed adjacent in alternate locations as noted on matrix.
(2) Required, one within 1000 ft. of each residence in neighborhood.
(3) Alternate to Community Park.
(4) Recommended (1) per 5000 dwelling units.
Required = Required minimum one per zone
Alternate = Alternate location for required park
X = Option per development

**e. Substitution for Acreage Requirements**. The following may be counted in the acreage calculation for parks:

**i.** Active recreation areas on school sites and on other institutional sites may be counted as parks if accessible to the public.

**ii.** Land for trails does not count towards the acreage required for parks. Land for trailheads does count toward the acreage required for parks.

**iii.** Community gardens and recreational facilities count toward the required acreage for parks.

**f. General Landscaping Requirements.**

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**i.** Unpaved areas of parks and plazas shall be re-vegetated with native grasses or native wildflowers (turf grasses may be required for active recreation or high traffic areas only), and planted with shrubs, or a combination thereof.

**ii.** All non-native plant materials in parks and plazas shall be irrigated by a permanent automated irrigation system. All native plant materials shall be irrigated for a 3 year period or planted with permacultural methods to minimize irrigation.

**g. Trail Categories.**

**i. District Trails.** District Trails are the district-wide connective trail systems. District trails are an alternative transportation system. They connect the village subdistricts, Employment Center and Institutional Campus Subdistricts. District Trails are shown on the CCD Circulation Map. District Trails shall be designed for pedestrian, bicycle and equestrian use. Site development plans, Conceptual site development plans and subdivision plats shall show District Trails in the approximate locations shown on the CCD Circulation Map.

**ii. Village Trails.** Village Trails are the main trails connecting the centers of the village subdistricts, the Employment Center Subdistrict and Institutional Campus Subdistrict to the District Trail system. These are to be identified at the Preliminary Plat submittal. At a minimum, Village Trails shall be designed for pedestrian and bicycle use.

**iii. Local Trails.** Local Trails are the secondary trails connecting the Village Neighborhood Subdistrict, Neighborhood Center Subdistrict, Village Fringe Subdistrict or Village Rural Subdistrict to the Village and District Trails network. These are to be identified at the Preliminary Plat submittal. At a minimum, Local Trails shall be designed for pedestrian and bicycle use.

**iv. Equestrian Trails.** If additional equestrian trails are provided they shall be identified at the Preliminary Plat submittal.

**h. Trail Standards.** Trail standards are set forth in table 8-19-3 below:

**Table 8-19-3 Trail Standards**

| TRAIL STANDARDS | | | |
|---|---|---|---|
| **Trail Category (1)** | **Minimum Trail Width** | **Min. Easement Width** | **Min. Surface Required** |
| District Trail | 8 | 20 | Natural Soil |
| Village Trail | 6 | 20 | 4" Base Course or 3" Paved |
| Local Trail | 5 | 15 | 4" Base Course |
| Equestrian Trail (2) | 5 | 15 | Natural Soil |
| Notes:<br>(1) Trails shall be established as public easements and shall be subject to reasonable notes | | | |

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and regulation. Trails may be located within the 100-year flood plain.
(2) Except for District Trails, Equestrian Trails should be separate from other trails.
(3) Subgrade surfaces for proposed trails shall be treated for weed control.

**7. Terrain Management.** The CCD is intended, in part, to provide opportunities for water harvesting, recharge, recycling and reuse of runoff and wastewater flows.

**a. Terrain management standards.**

**i.** Approved silt control measures shall be in place prior to the start of construction and shall remain until landscaping and revegetation is in place.

**ii.** Grading shall be kept to within 15 feet of development except as otherwise approved on the development plan.

**iii.** Areas disturbed by construction shall be revegetated within one year of completion of construction.

**b. Stormwater Management.**

**i.** Stormwater conveyance systems shall use methods that maximize infiltration and do not erode soil. The maximum flow rate from the developed area shall not exceed the historic pre-development flow rates. Conveyance systems that meet this requirement include, without limitation, shallow-sloped, gravel filled trenches and grass swales with in-line check dams, or other such systems as may be determined by the Administrator for the flow rate being managed.

**ii.** Retention and detention ponds or other proposed drainage structures shall be located downstream from the stormwater source to allow for positive drainage and erosion control.

**iii.** The entire length of the stormwater management system (including conveyance and detention) shall be used for infiltration.

**iv.** Stormwater control devices shall be located as close to the stormwater source as possible, except where impractical due to lot size and density. Control devices should include, without limitation, stormwater harvesting and irrigation to limit stormwater velocity and volume.

**v.** Stormwater control devices shall be designed to detain stormwater to maximize infiltration while accommodating a possible stormwater event the next day. Such design shall make allowance for the accumulation of silt.

**vi.** Drop inlets, catch basins and piped systems shall be avoided when practical. Where used, such facilities shall have downstream stilling basins or energy dissipaters to slow stormwater velocity and minimize erosion.

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**vii.** A National Pollution Discharge Elimination System permit shall be provided, if applicable.

**8.10.3.8. CCD subdistricts Established.** The following subdistricts are hereby established and approved for use in the PD-CCD district:

**Table 8-19-4 CCD Subdistricts**

| | |
|---|---|
| V | Village Zone |
| NCC | New Community Centers |
| NC | Neighborhood Centers |
| VN | Village Neighborhoods |
| EC | Employment Center |
| IC | Institutional Campus |
| M | Media District |
| RUR | Community College Rural |
| F | Community College Fringe |
| EN | Existing Neighborhoods |

**8.10.3.9. Village Subdistricts Development Standards.** Village subdistricts are development areas where the most intense uses are clustered within the New Community Center and Neighborhood Center Subdistricts. Village subdistricts are further delineated by the Village Separators Subdistrict that generally runs north/south and defines and separates village areas.

**1. General.** Development is allowed in the village subdistricts on flatland areas and adjacent areas in accordance with applicable requirements of this section and the following sustainable development requirements:

**a.** Each phase of a village subdistrict must include both residential and nonresidential development;

**b.** A variety of housing types and household income levels shall be integrated within each village subdistrict;

**c.** 75 percent of dwellings are located on south facing slopes and designed to use passive solar gain;

**d.** Development is tightly structured (generally of more than one story) and pedestrian-oriented with inner areas free of roads and parked vehicles; and

**e.** Structures are energy efficient (passive solar gain, energy efficient appliances, recycled building materials, nontraditional electric energy sources).

**2. Open Space, Plazas, Parks and Trails.** Private open space shall be provided equal to a minimum of 15 percent of total residential floor area.

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**3. Village Zone Dimensional Standards.** The dimensional standards in Table 8-19-5 below shall apply in the Village Zone.

**Table 8-19-5 Dimensional standards – CCD Village Zone (V)**

| Zoning District | VILLAGE (V) |
|---|---|
| Density (# of acres per dwelling unit) | Minimum of 3.5 DU per acre |
| Lot Size - Residential | 1500 sq ft |
| Setback | No minimum |

**8.10.3.10. New Community Centers Subdistrict Development Standards (NCC).** The New Community District subdistrict is intended to accommodate compact mixed use, with the highest density possible in relation to design standards, and a variety of housing choices. Civic, community, commercial, retail and services for the CCD district are to be concentrated in the New Community Center Subdistrict.

**1. General.** The New Community Center Subdistrict shall be located in Flatlands/Grasslands or Flatlands/Piñon Juniper land types, and within ½ mile walking distance of any residence of the neighborhood it serves. Development shall be in accordance with applicable requirements of this section and the following sustainable development requirements:

**a.** The maximum size of a NCC is 60 acres.

**b.** Residential uses shall constitute a minimum of 50 percent of gross square footage.

**c.** A mix of housing types is required, including single-family and multi-family.

**d.** The New Community Center Subdistrict shall be the location and focus of retail, office and service uses and major civic and public uses within the CCD district.

**e.** New Community Center Subdistricts shall be located on a primary district road with potential transit connections. Roads, open space and walkways connect to surrounding village subdistricts.

**2. Parking and Loading**. The parking budget may include on street parking, shared parking, one-stop multiple use.

**3. Blocks.** The maximum block length shall be 2000 feet.

**4. Buffers.** The New Community Center Subdistrict shall be located outside of required buffer areas.

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**5. New Community Center Subdistrict Dimensional Standards.** The dimensional standards in Table 8-19-6 below shell apply in the New Community Center.

**Table 8-19-6 Dimensional standards – New Community Center (NCC)**

| Zoning District | NCC |
|---|---|
| Density with community water and community sewer | Minimum of 3.5 DU per acre |
| Lot size -Residential | 1500 sq ft min |
| Floor Area Ratio | 0.33 min, 3 max |
| Height (maximum, feet) | 36ft with 42 ft allowed up to 25% of footprint |
| Setback | No minimum |

**8.10.3.11. Neighborhood Centers Subdistrict development standards (NC).** The Neighborhood Center Subdistrict is less intense than the New Community Center Subdistrict, and intended to allow mixed uses providing services to surrounding neighborhoods.

**1. General.** The Neighborhood Center subdistrict shall be located on Flatlands/ Grasslands and Flatlands /Juniper. The Neighborhood Center subdistrict shall be located within village subdistricts, Employment Center Subdistricts, and Institutional Campus subdistricts, and within ½ mile (walking distance) of any residence of the neighborhood it serves. Development shall be in accordance with applicable requirements of this section and the following sustainable development requirements:

**a.** The minimum size of a NC is 3 acres, there is no maximum size on a NC.

**b.** Residential uses shall constitute a minimum of 50 percent of gross square footage.

**c.** Mix of housing types is required, including single-family and multi-family.

**d.** Commercial, industrial and civic/Public buildings shall be oriented to the surrounding neighborhoods.

**e.** Living priority roads are required. Roads, open space and walkways shall connect to surrounding village subdistricts.

**2. Buffers.** The Neighborhood Center Subdistrict shall be located outside of required buffer areas.

**3. Neighborhood Center Density and Dimensional Standards.** The dimensional standards in Table 8-19-7 below shall apply in Neighborhood Center.

**Table 8-19-7 Dimensional standards – Neighborhood Center (NC)**

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| Zoning District | NC |
|---|---|
| Density with community water and community sewer (Sq.Ft per dwelling Unit) | Minimum of 3.5 DU per acre |
| Lot size -Residential | 1500 sq ft min |
| Floor Area Ratio | 0.25 min, 2 max |
| Height (maximum, feet) | 24ft. |
| Height within 500 ft of perimeter of plaza | 30 ft with 36ft allowed for up to 25% of building footprint |
| Setback | No minimum |

**8.10.3.12. Village Neighborhood Subdistrict development standards (VN).** The Village Neighborhood Subdistrict is intended for application to village subdistrict lands outside of the Village Center and Neighborhood Center Subdistricts where residential uses predominate. The Village Neighborhood Subdistrict may have distinct identities based on location, natural landscape, design theme or the nature of the adjacent neighborhood center.

**1. General.** The Village Neighborhood subdistrict is appropriate for Flatlands/ Grasslands and Flatlands/Piñon Juniper land types, and shall be located within a village subdistrict outside of the New Community Center Subdistrict and Neighborhood Center Subdistrict. Development shall be in accordance with applicable requirements of this section and the following sustainable development requirements:

**a.** There is no minimum or maximum size on a VN.

**b.** A mix of housing types is required, including single-family and multi-family.

**c.** Non residential and civic/Public uses shall be small scale and neighborhood oriented.

**d.** Living Priority Roads are required.

**2. Village Neighborhood Density and Dimensional Standards.** The dimensional standards in Table 8-19-8 below shall apply in the Village Neighborhood Zone.

**Table 8-19-8 Dimensional standards – Village Neighborhood (VN)**

| Zoning District | VN |
|---|---|
| Density with community water and community sewer (Sq.Ft per dwelling Unit) | Minimum of 3.5 DU per acre |
| Lot size -Residential | 1500 sq ft min |
| Height (maximum, feet) | 24ft. |
| Setback | No minimum |

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**8.10.3.13. Employment Center Subdistrict Development Standards (EC).** The Employment Center Subdistrict is intended to accommodate mixed uses, where large scale employers, anchor businesses and light industry can locate in support of New Community Center Subdistrict development. Businesses with special needs for access; buffering for visual, noise or other impacts; technology; storage and size can located in the Employment Center Subdistrict. The Employment Center Subdistrict provides a concentrated planned multi-use environment for light industrial and business uses. Retail uses may be included as necessary to support the needs of anchor employees.

**1. General.** The Employment Center Subdistrict shall be located on Flatlands/Grasslands and Flatlands/Piñon, Juniper land types, provided housing opportunities and a New Community Center Subdistrict are located within one mile. Development shall be in accordance with applicable requirements of this section and the following sustainable development requirements:

**a**. There is no minimum or maximum size on a EC.

**b.** Each phase of development in a multi-phase project shall include mixed use, unless the EC complies with Section 8.10.9.3.3.9 of this SLDC.

**c.** A mix of housing types appropriate to the characteristics of the Employment Center Subdistrict shall be required, including single-family and multi-family.

**d.** Living or Mixed Priority Roads are required and shall include direct primary road connection to a New Community Center with potential transit connections.

**e.** The Neighborhood Center Subdistrict may be utilized and located within the Employment Center Subdistrict.

**2. Parking and Loading.** Parking shall be designed around internal pedestrian walkways, with parking in a series of small parking areas.

**3. Open Space, Parks, Plazas and Trails.** District, Village and Local trails are required to connect the Employment Center Subdistrict to the CCD district trail system.

**4. Building design.** Feature buildings shall provide a focal point for each Employment Center Subdistrict and adjacent neighborhoods.

**5. Employment Center Density and Dimensional Standards**. The dimensional standards in Table 8-19-9 below shall apply in the Employment Center Zone.

**Table 8-19-9 Dimensional standards – Employment Center (EC)**

| Zoning District | EC |
|---|---|
| Density with community water and community sewer (Sq.Ft per dwelling Unit) | Minimum of 3.5 DU per acre |
| Lot size -Residential | 1500 sq ft min |
| Floor Area Ratio | No min, 3 max |

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| | |
|---|---|
| Height (maximum, feet) | 30ft with 36 ft allowed for up to 25% of building footprint |
| Setback | No minimum |

**8.10.3.14. Institutional Campus Subdistrict Development Standards (IC).** The Institutional Campus Subdistrict is a mixed use subdistrict that is reserved for large civic and public uses and to allow a concentration of facilities and room for flexibility and growth. The anchor institutional use is a large civic or public institution for which the campus is created.

**1. General.** The Institutional Campus Subdistrict shall be located on Flatlands/ Grasslands and Piñon/ Juniper land types as shown on the Zoning Map. Development shall be in accordance with applicable requirements of this section and the following sustainable development requirements:

**a.** The minimum size of an IC is 5 acres. The maximum size of an IC is 100 acres.

**b.** Residential, commercial and industrial uses must be accessory to the anchor institutional use.

**c.** Neighborhood Center Subdistricts may be located within the Institutional Campus Subdistrict.

**d.** Living or Mixed Priority Roads are required and shall include direct primary road connection to an Institutional Campus with potential transit connections.

**e.** Each phase of development in a multi-phase project shall include mixed use, unless the EC complies with Section 8.10.9.3.3.9 of this SLDC.

**f.** A mix of housing types appropriate to the characteristics of the Employment Center Subdistrict shall be required, including single-family and multi-family.

**g.** The Neighborhood Center Subdistrict may be utilized and located within the Institutional Campus Subdistrict.

**h.** Commercial and residential uses support the anchor institution and its users, but are subordinate in design and size. Without the anchor institution, no other uses are allowed in this subdistrict.

**2. Parking and Loading.** Parking shall be designed around internal pedestrian walkways, with parking in a series of small parking areas.

**3. Open Space, Parks, Plazas and Trails.** District, Village and Local trails are required to connect and Institutional Campus Subdistrict to the CCD district trail system.

**4. Building design.** Feature buildings shall provide a focal point for each Institutional Campus Subdistrict and adjacent neighborhoods.

**5. Phasing.** The first phase of the anchor institution must be built prior to or in conjunction with all other buildings.

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**6. Institutional Campus Density and Dimensional Standards**. The dimensional standards in Table 8-19-10 below shall apply in the Institutional Campus Zone.

**Table 8-19-10 Dimensional standards – Institutional Campus (IC)**

| Zoning District | IC |
|---|---|
| Density with community water and community sewer (Sq.Ft per dwelling Unit) | Minimum of 3.5 DU per acre |
| Lot size -Residential | 1500 sq ft min |
| Floor Area Ratio | No min, 3 max |
| Height (maximum, feet) | 30ft with 36 ft allowed for up to 25% of building footprint |
| Setback | No minimum |

**8.10.3.15. Media Subdistrict Development Standards (M).** The Media Subdistrict creates a specific district within the Santa Fe Community College District where a variety of media businesses, including the film industry, publishing industry and broadcast media, can be located to accommodate and support the special needs of such uses. The Media Subdistrict is intended to facilitate media uses and media-related uses in a functional and pedestrian friendly development.

**1. General.** The Media Subdistrict shall be located on Flatlands/ Grasslands, Flatlands/ Pinon, juniper land types in the location identified on the CCD Zoning Map. Development shall be in accordance with applicable requirements of this Section and the following development requirements:

**a.** No requirement for residential use.

**b.** Uses shall be oriented to a street or plaza.

**c.** Feature buildings shall provide a focal point for the center and adjacent neighborhoods.

**2. Building Design.** Building massing should incorporate vertical and horizontal offsets as well as architectural detailing that articulation as well as visual and tactile relief.

**3. Roads.**

**a.** Perimeter Service Roads are permitted and shall be shown on final development plan.

**b.** Direct Primary District road connections to new Community Center with potential transit connections.

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**c.** Direct primary District roads, open space and walkways connect to surrounding Village Zone and Fringe.

**4. Open space.**

**a.** Trails shall be provided along primary District Road Connections to new Community Center and Village Zones.

**b.** Private Open Space to include Community Center walkways and Plaza within secured perimeter.

**5. Media Subdistrict Density and Dimensional Standards**. The dimensional standards in Table 8-19-11 below shall apply in the Media Zone.

**Table 8-19-11 Dimensional standards – Media Subdistrict (M)**

| Zoning District | M |
|---|---|
| Floor Area Ratio | No min, 3 max |
| Height (maximum, feet) | 36 ft |
| Height for Special Needs Structures | 80 ft |
| Height for Ancillary Special Needs Structures | 48 ft with 60 ft allowed for up to 40% of building footprint |
| Setback | No minimum |

**8.10.3.16. Community College Fringe Subdistrict Development Standards (F).** The Community College Fringe Subdistrict is intended for hillsides, which are more sensitive to development. Residential and nonresidential development shall be sited and designed to blend into the Fringe and protect the character of the land. Developed Community College Fringe Subdistrict lands shall be designed with minimal disturbance as lower density additions to village subdistricts, Employment Center Subdistrict or Institutional Campus subdistrict.

**1. General.** The Community College Fringe Subdistrict is located on Hillside/Grasslands and Hillside/Piñon Juniper land types; and the slopes that transition between Flatlands and Arroyo Corridors as shown on the Zoning Map.

**a.** There is no minimum or maximum size on a EC.

**b.** Lands not developed shall remain Open Space Subdistrict or Village Separator Subdistrict.

**c.** Development in the Community College Fringe Subdistrict shall be permitted to occur only after or simultaneously with development in the adjacent village subdistricts, Employment Center Subdistrict and Institutional Campus Subdistrict.

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**d.** Clustering of development is required; minimum residential density in each development shall be 1.0 dwelling units per gross acre. Such density may be clustered up to 4 dwelling units per gross acre.

**e.** Living or Mixed Priority Roads are required. Roads, open space and walkways shall connect to neighboring subdistricts.

**f.** Commercial, industrial, civic and public uses may be allowed on flatlands as an extension of adjacent nonresidential development.

**g.** A minimum of 50 percent of gross square footage must be residential use.

**2. Buildings.**

**a.** Buildings shall step down hillsides to appear as a continuation of building clusters on the Flatlands.

**b.** Building pads shall be close to natural grade; on steeper slopes this may require that buildings step (up or down) with the natural grade or be built as separate structures to fit the natural grade.

**c.** Mass grading of multiple building sites shall be avoided and grading contained within individual building envelopes.

**d.** Nonresidential buildings shall parallel hillsides and parking shall be separated and placed at different elevations to prevent overlot grading.

**3. Open Space, Parks, Plazas and Trails.**

**a.** Map and protect significant trees.

**b.** Private open space is not required in the Community College Fringe Subdistrict.

**c.** Village and Local trails required connecting to CCD District trails and adjacent village subdistricts. Equestrian trails are optional.

**d.** The Community College Fringe Subdistrict is an alternative location for community or passive parks required for adjacent village subdistricts.

**4. Community College Fringe Density and Dimensional Standards.** The dimensional standards in Table 8-19-12 below shall apply in the Community College Fringe Zone.

**Table 8-19-12 Dimensional standards – Community College Fringe (F)**

| Zoning District | F |
|---|---|
| Density with community water and community sewer | 1 DU per acre |
| Lot size -Residential | Cluster up to 4 du per acre. 1500 sq ft min |
| Floor Area Ratio | No min, 2 max |

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| | |
|---|---|
| Height (maximum, feet) | 20ft |
| Setback | No minimum |
| Lot coverage (building and parking) | 50% |

**8.10.3.17. Community College Rural Subdistrict Development Standards (R).** The Community College Rural Subdistrict should be applied to lands where topography and vegetation are not suitable for concentrated center and neighborhood development.

**1. General.** The Community College Rural Subdistrict shall be located on Flatlands/ Piñon, juniper; Hillside/Grasslands; and Hillside/Piñon, juniper land types, as shown on the Zoning Map.

**a.** There is no minimum or maximum size of a rural subdistrict.

**b.** Clustering of development is required; minimum residential density in each development shall be one (1) dwelling units per five (5) gross acres. Such density may be clustered up to four (4) dwelling units per gross acre.

**c.** Living or Mixed Priority Roads are required. Roads, open space and walkways shall connect to surrounding Village Subdistrict.

**d.** Commercial, industrial, civic and public uses shall be small scale and limited to neighborhood oriented uses.

**e.** A minimum of 25 percent of gross square footage must be residential use.

**f.** Mix of housing types is required, including single-family and multi-family.

**2. Community College Rural Density and Dimensional Standards.** The dimensional standards in Table 8-19-13 below shall apply in the Community College Rural Zone.

**Table 8-19-13 Dimensional standards – Community College Rural (R)**

| Zoning District | R |
|---|---|
| Density with community water and community sewer | 1 DU per acre |
| Lot size -Residential | Cluster up to 4 du per acre. 1500 sq ft min |
| Floor Area Ratio | No min, 2 max |
| Height (maximum, feet) | 20ft |
| Setback | No minimum |
| Lot coverage (building and parking) | 50% |

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**8.10.3.18. Existing Neighborhood Subdistrict Standards. (EN)** The Existing Neighborhood Subdistricts are identified on the CCD Zoning Map and include Valle Lindo/Vista Del Monte, Vista Ocasa and West Arroyo Hondo.

**1. Road Design Standards.** Living Priority or Mixed Priority Roads are required where roads directly connect to roads within the CCD.

**2. Open Space.** Trails conforming and connecting to the district trail system shall be provided as required for subdivision and land division roads.

**3. Community College Existing Neighborhood Density and Dimensional Standards.** The dimensional standards in Table 8-19-14 below shall apply in the Community College Existing Neighborhood Subdistrict.

**Table 8-19-14 Dimensional standards – Existing Neighborhood (EN)**

| **Zoning District** | **EN** |
|---|---|
| Density (# of acres per dwelling unit) | 2.5 |
| Frontage (minimum, feet) | 100 |
| Lot width (minimum, feet) | 100 |
| Lot width (maximum, feet) | n/a |
| Height (maximum, feet) | 24 |

**8.10.3.19 CCD Use Matrix.** The Use Matrix attached to this section shall apply within the CCD.

| **Use** | **CCD V** | **CCD NCC** | **CCD NC** | **CCD VN** | **CCD F** | **CCD IC** | **CCD RUR** | **CCD EN** | **CCD Open Space** | **CCD EC** | **CCD M** | **Special Conditions** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Residential** | - | - | - | - | - | - | - | | - | - | - | - |
| Single-family | P | P | P | P | P | P | P | P | X | P | P | - |
| Accessory dwelling units | A | A | A | A | A | A | A | A | X | A | A | - |
| Multifamily dwellings | P | P | P | P | C | C | C | C | X | P | P | - |
| Retirement Housing (Apartments) | P | P | P | P | C | C | C | C | X | P | P | - |
| Assisted living facility | p | P | P | P | P | P | P | P | X | X | X | - |
| Life care or continuing care facilities | p | P | P | P | P | P | P | P | X | X | X | - |
| Nursing facilities | p | P | P | P | P | P | P | P | X | X | X | - |
| Community Home, NAICS 623210 | P | P | P | P | P | P | P | P | X | X | X | - |

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| Use | CCD V | CCD NCC | CCD NC | CCD VN | CCD F | CCD IC | CCD RUR | CCD EN | CCD Open Space | CCD EC | CCD M | Special Conditions |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Barracks | X | X | X | X | X | A | X | X | X | X | X | _ |
| Dormitories | X | X | X | X | X | A | X | X | X | X | X | _ |
| Temporary structures, tents etc. for shelter | A | A | A | A | A | A | A | A | A | A | A | _ |
| **Hotels, motels, or other accommodation services** | - | - | - | - | - | - | - | - | - | - | - | - |
| Bed and Breakfast inn | P | P | P | P | P | X | P | P | X | X | P | _ |
| Rooming and boarding housing | P | P | P | P | P | X | P | P | X | X | X | _ |
| Resorts | X | P | P | X | C | X | P | X | X | X | P | _ |
| Retreats | X | P | P | X | C | X | P | X | X | X | X | _ |
| Hotels, motels, and tourist courts | X | P | C | X | X | X | X | X | X | P | P | _ |
| **Commercial** | - | - | - | - | - | - | - | - | - | - | - | - |
| Shop or store with drive-through facility | X | C | C | X | X | X | X | X | X | P | P | _ |
| Restaurant, with incidental consumption of alcoholic beverages | C | C | C | X | X | X | X | X | X | C | C | _ |
| Restaurant, with no consumption of alcoholic beverages permitted | C | P | P | X | X | X | X | X | X | P | P | _ |
| Stand-alone store or shop | X | C | C | X | X | X | X | X | X | P | P | _ |
| Department store | X | C | C | X | X | X | X | X | X | C | C | _ |
| Warehouse discount store/superstore | X | C | C | X | X | X | X | X | X | C | C | _ |
| Market shops, including open markets | X | C | X | X | X | X | X | X | X | C | C | _ |
| Gasoline station | X | C | C | X | X | X | X | X | X | C | C | _ |
| Automobile repair and service | X | C | C | X | X | X | X | X | X | P | P | _ |
| Car dealer | X | C | X | X | X | X | X | X | X | C | C | _ |
| Bus, truck, mobile home, or large vehicle dealers | X | X | X | X | X | X | X | X | X | C | C | _ |
| Bicycle, motorcycle, all terrain vehicle dealers | X | X | X | X | X | X | X | X | X | P | P | _ |
| Boat or marine craft dealer | X | X | X | X | X | X | X | X | X | C | C | _ |
| Automotive parts, accessories, or tires | X | C | C | X | X | X | X | X | X | P | P | _ |
| Gasoline service | X | X | X | X | X | X | X | X | X | C | C | _ |
| Lumberyard and materials | X | P | P | X | X | X | X | X | X | P | P | _ |
| Outdoor resale business | X | C | X | X | X | X | X | X | X | C | C | _ |
| Pawnshops | X | C | C | X | X | X | X | X | X | P | P | _ |
| Beer, wine, and liquor store (off-premises consumption of alcohol) | X | C | C | C | X | C | X | X | X | C | C | _ |
| Shopping center | X | P | P | X | X | X | X | X | X | C | C | _ |
| Convenience stores or centers | X | P | P | X | X | X | X | X | X | P | P | _ |
| Car care center | X | C | C | X | X | X | X | X | X | P | P | _ |
| Car washes | X | C | C | X | X | X | X | X | X | P | P | _ |
| Office or bank (without drive-through facility) | X | P | P | X | X | P | X | X | X | P | P | _ |

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| Use | CCD V | CCD NCC | CCD NC | CCD VN | CCD F | CCD IC | CCD RUR | CCD EN | CCD Open Space | CCD EC | CCD M | Special Conditions |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Office (with drive-through facility) | X | P | P | X | X | P | X | X | X | P | P | _ |
| Office or store with residence on top | P | P | P | P | P | P | P | P | X | P | P | _ |
| Office-over storefront structure | X | P | P | X | X | P | X | X | X | P | P | _ |
| Research and development services (scientific, medical, and technology) | X | C | X | X | X | P | X | X | X | P | P | _ |
| Car rental and leasing | X | C | X | X | X | X | X | X | X | C | C | _ |
| Leasing trucks, trailers, recreational vehicles, etc. | X | C | X | X | X | X | X | X | X | C | C | _ |
| Services including pest control, janitorial, landscaping, carpet upholstery, cleaning and other services | X | P | P | X | X | P | X | X | X | P | P | _ |
| Bars, taverns and nightclubs | X | C | C | C | X | C | X | X | X | C | C | _ |
| Sexually oriented business | X | X | X | X | X | X | X | X | X | X | X | _ |
| Tattoo parlors | X | P | P | X | X | P | X | X | X | P | P | _ |
| **Industrial , manufacturing and wholesale trade** | | | | | _ | _ | _ | _ | _ | _ | _ | _ |
| Light industrial structures and facilities (not enumerated in Codes 2611-2615, below) | X | C | C | X | X | X | C | X | X | P | P | _ |
| Loft | X | C | C | X | X | X | C | X | X | P | P | _ |
| Mill-type factory structures | X | X | X | X | X | X | X | X | X | C | C | _ |
| Manufacturing plants | X | X | X | X | X | X | X | X | X | C | C | _ |
| Industrial parks | X | X | X | X | X | X | X | X | X | C | C | _ |
| Laboratory or specialized industrial facility | X | X | X | X | X | X | X | X | X | C | C | _ |
| Assembly and construction-type plants | X | X | X | X | X | X | X | X | X | C | C | _ |
| Process plants (metals, chemicals asphalt, concrete, etc.) | X | X | X | X | X | X | X | X | X | C | C | _ |
| Construction-related businesses | X | C | C | X | X | X | C | X | X | P | P | _ |
| Heavy construction | X | X | X | X | X | X | X | X | X | C | C | _ |
| Machinery related | X | X | X | X | X | X | X | X | X | C | C | _ |
| ~~Special t~~Trade contractor, plumbing, electrical, roofing, painting, landscaping | X | C | C | X | X | X | C | X | X | P | P | _ |
| Automotive paint and body | X | C | C | X | X | X | X | X | X | P | P | _ |
| Automotive wrecking and graveyards, salvage yards, and junkyards | X | X | X | X | X | X | X | X | X | X | X | _ |
| Vehicle storage for towing or related business | X | X | X | X | X | X | X | X | X | X | X | _ |
| Demolition, building and structure business | X | X | X | X | X | X | X | X | X | C | C | _ |
| Warehouse or storage facility Structure | X | X | X | X | X | X | X | X | X | P | P | _ |
| Mini-warehouse, mini-storage units | X | C | C | X | X | X | X | X | X | C | C | _ |
| High-rise mini-warehouse | X | C | C | X | X | X | X | X | X | C | C | _ |
| Warehouse structure | X | X | X | X | X | X | X | X | X | P | P | _ |

| Use | CCD V | CCD NCC | CCD NC | CCD VN | CCD F | CCD IC | CCD RUR | CCD EN | CCD Open Space | CCD EC | CCD M | Special Conditions |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Produce warehouse | X | X | X | X | X | X | X | X | X | P | P | _ |
| Refrigerated warehouse or cold storage | X | X | X | X | X | X | X | X | X | P | P | _ |
| Large area distribution or transit warehouse | X | X | X | X | X | X | X | X | X | P | P | _ |
| Wholesale trade— durable goods | X | X | X | X | X | X | X | X | X | P | P | _ |
| Wholesale trade nondurable goods | X | X | X | X | X | X | X | X | X | P | P | _ |
| Food, textiles, and related products | X | X | X | X | X | X | X | X | X | C | C | _ |
| Wood, paper, and printing products | X | X | X | X | X | X | X | X | X | C | C | _ |
| Tank farms | X | X | X | X | X | X | X | X | X | C | C | _ |
| **Public assembly structures** | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ |
| Performance theater | X | P | P | X | X | P | X | X | X | C | P | _ |
| Movie theater | X | P | C | X | X | C | X | X | X | P | P | _ |
| Amphitheater | X | P | C | X | X | C | X | X | X | X | P | _ |
| Drive-in theaters | X | P | C | X | X | C | X | X | X | X | X | _ |
| Indoor games facility | X | P | C | X | X | C | X | X | X | X | P | _ |
| Amusement, sports, or recreation establishment not specifically enumerated | X | P | C | X | X | C | X | X | X | X | C | _ |
| Amusement or theme park | X | X | X | X | X | X | X | X | X | C | C | _ |
| Arcade | X | P | C | X | X | C | X | X | X | X | C | _ |
| Miniature golf establishment | X | P | P | C | C | P | X | X | X | X | X | _ |
| Fitness, recreational sports, gym, or athletic club | X | P | P | X | X | P | X | X | X | P | P | _ |
| Bowling, billiards, pool, etc. | X | P | C | X | X | C | X | X | X | X | X | _ |
| Skating rinks | X | P | C | X | X | C | X | X | X | X | X | _ |
| Sports stadium or arena | X | P | P | P | X | P | P | X | C | C | C | _ |
| Racetrack or raceway | X | X | X | X | X | X | X | X | X | C | C | _ |
| Exhibition, convention or conference structure | X | P | P | X | X | P | X | X | X | C | C | _ |
| Churches, temples, synagogues, mosques, and other religious facilities | P | P | P | P | P | P | P | P | X | P | P | _ |
| Covered or partially covered atriums and public enclosure | P | P | P | P | P | P | P | P | C | C | C | _ |
| Passenger terminal, mixed mode | X | P | P | P | X | P | X | X | X | P | P | _ |
| Active open space/ athletic fields/golf courses | P | P | P | P | P | P | P | X | P | P | C | _ |
| Passive open space | P | P | P | P | P | P | P | P | P | P | P | _ |
| **Arts, entertainment, and recreation** | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ |
| Active leisure sports and related activities | C | P | C | P | C | C | C | C | C | C | C | _ |
| Movie Ranch | X | P | P | X | C | X | P | X | X | X | P | _ |

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| Use | CCD V | CCD NCC | CCD NC | CCD VN | CCD F | CCD IC | CCD RUR | CCD EN | CCD Open Space | CCD EC | CCD M | Special Conditions |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Camps, camping, and related establishments | X | X | X | P | X | C | C | X | C | C | C | _ |
| Exhibitions and art galleries | X | P | P | X | X | P | X | X | X | C | C | _ |
| Performing arts or supporting establishment | X | P | P | X | X | P | X | X | X | C | P | _ |
| Theater, dance, or music establishment | X | P | P | X | X | P | X | X | X | C | P | _ |
| **Institutional or community facilities** | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ |
| Community center | X | P | P | C | C | P | X | X | X | X | X | _ |
| Hospitals | X | X | X | X | X | C | X | X | X | C | C | _ |
| Medical clinics | X | P | P | P | X | P | X | X | X | X | X | _ |
| Social assistance, welfare, and charitable services (not otherwise enumerated) | X | P | P | P | X | P | X | X | X | X | X | _ |
| Child and youth services | X | P | P | P | X | P | X | X | X | X | X | _ |
| Child care institution (basic) | X | P | P | C | P | P | P | X | X | P | P | _ |
| Child care institution (specialized) | X | P | P | C | P | P | P | X | X | P | P | _ |
| Day care center | X | P | P | C | P | P | P | X | X | P | P | _ |
| Community food services | P | P | P | P | P | P | P | X | X | P | P | _ |
| Emergency and relief services | P | P | P | P | P | P | P | P | X | P | P | _ |
| Other family services | X | P | P | P | X | P | X | X | X | X | X | _ |
| Services for elderly and disabled | X | P | P | P | X | P | X | X | X | X | X | _ |
| Animal hospitals | X | C | C | X | X | C | C | X | X | X | X | _ |
| School or university (privately owned) | X | P | P | P | C | P | C | X | X | C | C | _ |
| Grade school (privately owned) | X | P | P | P | C | P | C | X | X | C | C | _ |
| College or university facility (privately owned) | X | P | P | P | C | P | C | X | X | C | C | _ |
| Technical, trade, and other specialty schools | X | P | P | X | X | P | X | X | X | X | X | _ |
| Library | X | P | P | X | X | P | X | X | X | P | P | _ |
| Museum, exhibition, or similar facility | X | P | P | X | X | P | X | X | X | C | C | _ |
| Planetarium | X | P | P | X | X | P | X | X | X | C | C | _ |
| Aquarium | X | P | P | X | X | P | X | X | X | C | C | _ |
| Zoological parks | X | P | P | X | X | P | X | X | X | C | C | _ |
| Public safety related facility | P | P | P | P | P | P | P | P | X | P | P | _ |
| Fire and rescue station | P | P | P | P | P | P | P | P | X | P | P | _ |
| Police station | P | P | P | P | P | P | P | P | X | P | P | _ |
| Emergency operation center | P | P | P | P | P | P | P | P | X | P | P | _ |
| Correctional or rehabilitation facility | X | X | X | X | X | C | X | X | X | C | C | _ |
| Cemetery, monument, tombstone, or mausoleum | X | X | X | P | P | X | P | X | C | X | X | _ |

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| Use | CCD V | CCD NCC | CCD NC | CCD VN | CCD F | CCD IC | CCD RUR | CCD EN | CCD Open Space | CCD EC | CCD M | Special Conditions |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Funeral homes | X | X | X | X | X | C | X | X | X | C | C | _ |
| Cremation facilities | X | X | X | X | X | C | X | X | X | C | C | _ |
| Public administration | X | P | P | X | X | P | X | X | X | P | P | _ |
| Post offices | X | P | P | X | X | P | X | X | X | P | P | _ |
| Space research and technology | X | C | X | X | X | P | X | X | X | P | P | _ |
| Clubs or lodges | X | P | P | X | C | C | X | X | X | P | P | _ |
| **Transportation-related facilities** | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ | _ |
| Commercial automobile parking lots | X | P | P | X | X | P | X | X | X | P | P | _ |
| Commercial automobile parking garages | X | P | P | X | X | P | X | X | X | P | P | _ |
| Surface parking, open | X | P | P | X | X | P | X | X | X | P | P | _ |
| Surface parking, covered | X | P | P | X | X | P | X | X | X | P | P | _ |
| Underground parking structure with ramps | X | P | P | X | X | P | X | X | X | P | P | _ |
| Rooftop parking facility | X | P | P | X | X | P | X | X | X | P | P | _ |
| Bus terminal | X | P | P | P | X | P | X | X | X | P | P | _ |
| Bus stop shelter | P | P | P | P | P | P | P | P | X | P | P | _ |
| Truck storage and maintenance facilities | X | X | X | X | X | C | X | X | X | C | C | _ |
| Truck freight transportation facilities | X | X | X | X | X | X | X | X | X | C | C | _ |
| Light rail transit lines and stops | P | P | P | P | P | P | P | P | P | P | P | _ |
| Local rail transit storage and maintenance facilities | X | X | X | X | X | X | X | X | X | P | P | _ |
| Taxi and limousine service maintenance and storage facilities | X | X | X | X | X | C | X | X | X | C | C | _ |
| Taxi and limousine service dispatch facilities | X | X | X | X | X | X | X | X | X | P | P | _ |
| Bus transportation storage and maintenance facilities | X | X | X | X | X | C | X | X | X | C | C | _ |
| Towing and other road service facilities, excluding automobile salvage, wrecking, or permanent vehicle storage | X | X | X | X | X | X | X | X | X | C | C | _ |
| Long-distance or bulk pipelines for petroleum products, natural gas, or mineral slurry | C | C | C | C | C | C | C | C | C | C | C | _ |
| Courier and messenger service facilities | X | X | X | X | X | X | X | X | X | C | C | _ |
| Commercial airports | X | X | X | X | X | X | X | X | X | X | X | _ |
| Private airplane runways and landing strips | X | X | X | X | X | X | X | X | X | X | X | _ |
| Airport maintenance and hangar facilities | X | X | X | X | X | X | X | X | X | X | X | _ |
| Heliport facility | X | X | X | X | X | X | X | X | X | X | X | _ |
| Helistops | X | X | X | X | X | X | X | X | X | X | X | _ |
| Glide port, stolport, ultralight airplane, or balloon port facility | X | X | X | X | X | X | X | X | X | X | X | _ |

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| Use | CCD V | CCD NCC | CCD NC | CCD VN | CCD F | CCD IC | CCD RUR | CCD EN | CCD Open Space | CCD EC | CCD M | Special Conditions |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Railroad tracks, spurs, and sidings | P | P | P | P | P | P | P | P | P | P | P | - |
| Railroad switching, maintenance, and storage facility | P | P | P | P | P | P | P | P | X | P | P | - |
| Railroad passenger station | P | P | P | P | P | P | P | P | X | P | P | - |
| Railroad freight facility | X | X | X | X | X | X | X | X | X | C | C | - |
| **Utility** | - | - | - | - | - | - | - | - | - | - | - | - |
| Local distribution facilities for water, natural gas, and electric power | X | C | C | C | C | P | C | C | C | P | P | - |
| Telecommunications lines | X | C | C | C | C | P | C | C | C | P | P | - |
| Electric power substations | X | C | C | X | C | C | C | C | X | C | C | - |
| High-voltage electric power transmission lines | X | C | C | C | C | P | C | C | C | P | P | - |
| Dam | X | C | C | C | C | C | C | C | C | C | C | - |
| Livestock watering tank or impoundment | - | P | P | P | P | P | P | P | P | P | P | - |
| Levee | X | C | C | C | C | C | C | C | C | C | C | - |
| Water tank (elevated, at grade, or underground) | C | C | C | C | C | P | C | C | C | P | P | - |
| Water wells, well fields, and bulk water transmission pipelines | C | C | C | C | C | P | C | C | C | P | P | - |
| Water treatment and purification facility | C | C | C | C | C | P | C | C | C | P | P | - |
| Water reservoir | C | C | C | C | C | C | C | C | C | C | C | - |
| Irrigation facilities, including impoundments for on-site irrigation or acequia system irrigation | P | P | P | P | P | P | P | P | P | P | P | - |
| Wastewater storage or pumping station facility, lift stations, and collection lines | C | C | C | C | C | P | C | C | C | P | P | - |
| Solid waste landfill facility DCI | X | X | X | X | X | X | X | X | X | X | X | - |
| Composting facility | X | X | X | X | X | C | X | X | X | C | X | - |
| Recycling transfer center | P | P | P | P | P | P | P | P | P | P | P | - |
| Solid waste collection transfer station (Governmental) | X | X | X | X | C | X | C | X | X | C | C | - |
| Solid waste collection transfer station (Private) | X | X | X | X | C | X | C | X | X | C | C | - |
| Solid waste combustor or incinerator | X | X | X | X | X | X | X | X | X | X | X | - |
| Septic tank service, repair, and installation business | X | X | X | X | X | X | X | X | X | P | P | - |
| Household hazardous waste collection facility | X | X | X | X | X | X | X | X | X | C | X | - |
| Hazardous waste storage facility | X | X | X | X | X | X | X | X | X | C | X | - |
| Hazardous waste treatment and disposal facility | X | X | X | X | X | X | X | X | X | C | X | - |

| Use | CCD V | CCD NCC | CCD NC | CCD VN | CCD F | CCD IC | CCD RUR | CCD EN | CCD Open Space | CCD EC | CCD M | Special Conditions |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Sewage treatment plant and disposal facilities | C | C | C | C | C | P | C | X | C | P | X | _ |
| Gas or electric power generation facility | C | C | C | X | C | C | C | X | X | C | C | _ |
| New Wireless Communication Facility/Modification of existing wireless communication facility with substantial changes | X | X | X | X | C | P | X | X | X | C | P | _ |
| Modification of existing wireless communication facility with no substantial changes/Collocation | P | P | P | P | P | P | P | P | P | P | P | _ |
| Roof Mounted/Surface Mounted/Stealth | C | C | C | C | C | C | C | C | C | p | p | _ |
| Amateur Radio Antenna | p | p | p | p | p | p | p | p | p | P | P | _ |
| Weather stations or transmitters | X | C | C | X | X | P | X | X | X | P | P | _ |
| Environmental monitoring station (air, soil, etc.) | X | C | C | X | X | P | X | X | X | P | P | _ |
| Commercial solar energy production facility | X | C | C | X | X | C | X | X | X | C | C | _ |
| Geothermal production facility | X | C | C | X | X | C | X | X | X | C | C | _ |
| Large scale wind facility (DCI) | X | C | C | X | X | C | X | X | X | C | C | _ |
| Highway rest stops and welcome centers | P | P | P | P | P | P | P | P | X | P | P | _ |
| Fountain, sculpture, or other similar decorative structures | P | P | P | P | P | P | P | P | X | P | P | _ |
| Permanent outdoor stage, bandstand, or similar structure | X | P | P | X | X | P | X | X | X | P | P | _ |
| **Agriculture, forestry, and conservation/open space** | - | - | - | - | - | - | - | - | - | - | - | - |
| Grain silos and other storage structure for grains and agricultural products | A | A | A | A | A | C | A | A | X | X | X | _ |
| Animal production that includes slaughter | X | X | X | X | X | X | X | X | X | C | X | _ |
| Livestock pens or hog houses | X | X | X | X | X | X | X | X | X | C | C | _ |
| Commercial greenhouses | C | C | C | C | C | C | C | C | X | P | P | _ |
| Nurseries and other growing of ornamental plants | P | P | P | P | P | P | P | P | X | P | P | _ |
| Stables and other equine-related facilities - All personal use and commercial up to 12 horses. | C | C | C | C | C | C | C | C | C | C | C | _ |
| Stables and other equine-related facilities - Commercial over 12 horses | C | X | X | X | C | C | C | C | C | C | C | _ |
| Kennels and commercial dog breeding facilities | X | C | C | X | C | P | C | X | X | P | P | _ |
| Apiary and other related structures | P | P | P | P | P | P | P | P | X | P | P | _ |
| Crop production outdoor | P | P | P | P | P | P | P | P | X | P | P | _ |

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| Use | CCD V | CCD NCC | CCD NC | CCD VN | CCD F | CCD IC | CCD RUR | CCD EN | CCD Open Space | CCD EC | CCD M | Special Conditions |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Crop production greenhouse | P | P | P | P | P | P | P | P | X | P | P | |
| Display or sale of agricultural products raised on the same premises | A | X | A | X | A | A | A | A | A | A | X | |
| Forestry and logging operations | X | X | X | X | X | X | X | X | X | X | X | |
| Game preserves and retreats | X | X | X | X | X | X | X | X | X | X | X | |
| Support business and operations for agriculture and forestry | X | X | X | X | A | X | A | X | X | C | C | |
| Parks, open space areas, conservation areas, and preservation areas | P | P | P | P | P | P | P | P | P | P | P | |
| Public or community outdoor recreation facilities | P | P | P | P | P | P | P | P | C | P | P | |
| Concentrated animal feeding operation | X | X | X | X | X | X | X | X | X | X | X | |
| ~~Cattle ranching, and the grazing or cattle or other livestock~~ | ~~X~~ | ~~X~~ | ~~X~~ | ~~X~~ | ~~P~~ | ~~X~~ | ~~P~~ | ~~X~~ | ~~P~~ | ~~X~~ | ~~X~~ | |
| Grazing and ranching of livestock | P | P | P | P | P | P | P | P | P | P | P | 10.3 |
| Dairy farms | X | X | X | X | X | X | X | X | X | X | X | |
| Other farm and farming-related structures (Sale of farming products) | A | A | A | A | P | A | P | A | X | C | X | |
| Poultry farms and poultry production facilities | X | X | X | X | X | X | X | X | X | X | X | |
| Sheds, or other agricultural facilities | A | A | A | A | P | A | P | A | X | C | C | |
| Animal waste lagoons (DCI) | X | X | X | X | X | X | X | X | X | X | X | |
| **Mining and extraction establishments** | | | | | | | | | | | | |
| Oil and natural gas exploration or extraction | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | |
| Hard Rock mining | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | |
| Sand and gravel mining | X | X | X | X | C | X | C | X | C | C | X | |
| Sand and gravel mining with blasting (as specified in Section 11.2.7) DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | DCI | |
| *** Subject to inclusion in approved list of uses that is part of the site plan for the Mixed Use and Planned Development District.** | | | | | | | | | | | | |

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**8.10.~~3~~4. Planned Traditional Neighborhood Development (PD-TND).** Reserved.

**8.10.~~4~~5. Planned Neighborhood Center (PD-NC).** Reserved.

**8.10.~~5~~6. Planned Regional Center (PD-RC).** Reserved.

**8.10.~~6~~7. Planned Campus/Opportunity Center (PD-C/O).** Reserved.

**8.10.~~7~~8. Planned Transit Oriented Development (PD-TOD).** Reserved.

**8.10.~~8~~9. Planned Conservation Subdivision (PD-CS).** Reserved.

**~~8.10.9. Planned District Santa Fe Community College District (Ordinance 2000-12).~~**

**~~8.10.10. Planned District Media District (Ordinance 2007-12).~~**

**8.10.11. Existing Approvals Identified as PDs.**

**8.10.11.1.** In order to recognize existing approvals, that do not fit into a base zoning district, the following developments that have received master plan approval prior to the effective date of this SLDC are identified on the zoning map and listed below:

**1.** Galisteo Basin Preserve.

**2.** Aldea.

**3.** Tessera.

**4.** Bishops Lodge Resort

**5.** The Downs at Santa Fe

**6.** Tavelli Mixed Use Subdivision.

**7.** Santa Fe Canyon Ranch.

**8.** Cimarron Village.

**9.** Saint Francis South Business Park.

**10.** Avanti Business Park/Santa Fe Metro Center

**11.** Sunrise Springs Resort.

**12.** Santa Fe Horse Park.

**13.** Ten Thousand Waves Spa and Resort

**14.** Rancho Encantado Resort

**15.** Las Campanas

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**8.10.11.2.** The above approved developments shall be developed in accordance with, and governed by and restricted to the densities, uses and conditions identified on the approved master plan, plat or development plan.

**8.10.11.3. Expansion of existing PDs.** An expansion of an existing PD is a request for any enlargement, greater density or intensity of non-residential uses, relocation, decrease in a project's size or density, or modification of any condition of a previously approved and currently valid PD. There are two types of PD expansion, a Major Expansion and a Minor Expansion.

**1. Minor Expansion.** Shifts in on-site location of the development and changes in non-residential size, shape, intensity, or configuration of less than twenty-five percent (25%) of impervious surface or floor area over what was originally approved, may be authorized under a conditional use permit, provided that such expansion complies with the following criteria:

**a.** No minor expansion has been previously granted pursuant to this section;

**b.** The expansion is consistent with the scope of the approved development; and

**c.** The proposed expansion conforms to the SLDC and is consistent with the goals, policies and strategies of the SGMP.

**2. Major Expansion.** Any proposed expansion, other than minor expansion, including an increase in residential subdivision density, shall require the submission of a new PD application or rezoning request.

**3. Relaxation of Development Percentages.** Any expansion of an existing PD may not be required to comply with the maximum and minimum percentages for residential and non-residential used identified in table 8-19.

## 8.11. OVERLAY ZONES.

**8.11.1. Generally.** Overlay zones address special siting, use, and compatibility issues requiring regulations that supplement or supplant those found in the underlying zoning districts. If an overlay zone regulation conflicts with any standard of the underlying zone, the standard of the overlay zone shall govern.

### 8.11.2. Rural Commercial Overlay (O-RC).

**8.11.2.1. Intent**. The Rural Commercial Overlay zone (O-RC) accommodates the development of agriculture business, commercial, service-related, and limited industrial activities that have adequate facilities and would not cause a detriment to any abutting rural residential lands. This zone is appropriate for 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 zone allows a mixture of land uses, there are controls intended to minimize or buffer any nuisances caused by such land uses.

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**8.11.2.2. Location.** The Rural Commercial Overlay is appropriate for use in the A/R, RUR, RUR-F, RES-F, RUR-R, RES-E, RES-C, and TC districts.

**8.11.2.3. Permitted Uses**. In addition to those uses allowed by the underlying zoning, the following uses are allowed in the Rural Commercial Overlay upon the issuance of a development permit:

**1.** Agriculture production, storage and food processing facilities, business, service, and commercial establishments, provided the maximum floor area for each establishment shall not exceed five thousand (5,000) square feet;

**2.** Commercial greenhouses, plant nurseries, and landscapers;

**3.** Kennels, animal shelters, veterinary hospitals;

**4.** Animal feed stores, tack shops, farm equipment sales;

**5.** Day-care and child-care services;

**6.** Cemeteries; and

**7.** Public utility structures including renewable energy facilities, transformers, switching, pumping, or similar technical installations essential to the operation of a public utility.

**8.11.2.4. Conditional Uses**. The following uses may be allowed in the Rural Commercial Overlay upon the issuance of a conditional use permit:

**1.** Agriculture production, storage and food processing facilities, business, service, and commercial establishments provided the maximum floor area for each establishment shall not exceed fifteen thousand (15,000) square feet;

**2.** 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 twenty-five thousand (25,000) square feet in floor area;

**c.** No building for manufacturing purposes shall be located less than three hundred (300) feet from any residential structure, except for a resident caretaker dwelling;

**d.** All buildings on a manufacturing site shall not cover an aggregate area of more than forty percent (40%) of such site, and

**e.** All manufacturing activities shall be conducted in accordance with State and Federal environmental standards.

**3.** Salvage yards for scrap material, including automobile bodies, provided that:

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**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 (6) feet in height; and

**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 one (1) acres.

**4.** Commercial stables, rodeo arenas, polo grounds, and riding academies.

**8.11.2.5. Dimensional Standards.** Dimensional standards are as prescribed in the underlying zoning except as prescribed in this section. Minimum lot size for a non-residential use within a Rural Commercial Overlay is 2.5 acres in A/R, RUR, RUR-F, RUR-R, RES-F, RES-E.

**8.11.3. Overlay Community District (O-CD).**

**8.11.3.1. Description.** Santa Fe County has many unique and distinctive communities that contribute significantly to the overall character and identity of the County. A community district (O-CD) may be established through an overlay zone:

**1.** To recognize the diversity of issues and character in individual communities ;

**2.** To preserve and protect the character and valued features of established communities;

**3.** To reduce conflicts between new construction and existing development in established communities;

**4.** To provide a reliable understanding of the parameters of community character; and

**5.** To enhance identifiable attributes of design, architecture, history or geography.

**8.11.3.2. Purpose.** The community overlay district establishes overlay zoning that will implement the recommended land uses of an adopted community plan.

**8.11.3.3. Relation to Underlying Base Zoning.** An approved overlay community district does not replace the underlying zoning of the area. The approved overlay district may, however, include appropriate modifications to the regulations of the underlying base zoning district to accommodate unique conditions that do not fit the base zoning districts of the SLDC.

**8.11.3.4. Creation.**

**1. Procedure.** Each community overlay district shall be established by a separate resolution of the Board in accordance with the zoning amendment procedures established in §1.15;

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**2. Community Plan Prerequisite.** Prior to the establishment of a community overlay district, a community plan shall be prepared and adopted in accordance with §2.1.5. The adopted community plan shall include a recommendation that the community overlay district be created as one of the plan's implementation policies.

**8.11.3.5. Community Overlay District Regulations.**

**1.** A community overlay district may regulate the following:

**a.** building design, including scale, mass and distinctive architectural characteristics such as front porches, height or roof styles;

**b.** streetscape, including lot frontage, fences, walls, parking, lighting and landscaping;

**c.** ~~density~~ base zoning district and minimum lot size;

**d.** lot coverage;

**e.** setbacks;

**f.** building height;

**g.** Developments of Countywide Impact or DCIs; and

**h.** uses.

**2.** A community overlay district shall not restrict the following:

**a.** Countywide policies and priorities;

**b.** County affordable housing requirements;

**c.** no impact and low impact home occupations, however, design standards may be modified for low impact home occupations;

**d.** group or foster homes;

**e.** day care facilities;

**f.** public or private schools for elementary, middle or senior high students;

**g.** religious institutions;

**h.** other uses determined by the Administrator as necessary for the health and safety of the community; or

**i.** procedures established in the SLDC found in Chapters 4 and 5.

j. wireless communications facilities and amateur radio facilities.

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**8.11.3.6. Adopted Community Overlay Districts.** For adopted community overlay districts and their specific regulations see Chapter 9.

**8.11.4. Environmental and Resource Protection Overlay (O-ERP).**

**8.11.4.1. Purpose.** The purpose of the Environmental and Resource Protection Overlay (O-ERP) is to ensure that property is developed in a manner consistent with the protection of environmental, natural, historical and archeological resources and that development is designed and arranged to protect both on-site and adjacent resources. Damage to the natural, scenic, and cultural environment has significant impacts on visual and natural resources. The County has identified goals to protect archaeological, historic and cultural resources, species, habitat and biodiversity, scenic beauty and environmentally sensitive lands. Preserving and supporting the conservation of these resources will enhance the character and function of communities, neighborhoods and rural areas. - This section establishes procedures to enable the applicant to achieve the mutually compatible objectives of reasonable use of land and resource protection.

**8.11.4.2. Applicability.** The boundaries of an Environmental and Resource Protection Overlay zone shall be delineated using the most current and best available location data and be of sufficient size to guarantee the appropriate level of resource protection. Boundaries may be modified as necessary as new data becomes available.

**8.11.4.3. Establishment of Presumed Protection Areas.** ~~The SGMP Land Development Suitability Analysis (LDSA) identifies areas of high, moderate and low development suitability. All areas identified as Low Development Suitability are most sensitive to development pressures~~ Environmentally critical areas such as unique and scenic areas, or endangered habitats may be identified as areas in need of protection. The County may determine that a development site includes areas with environmental, natural, historical or archeological resources in need of protection based on other information or the findings of the EIR.

**8.11.4.4. Required Mitigation.** While development is not anticipated inside the Environmental and Resource Protection Overlay zone, if development is proposed, the burden is on the applicant to establish that the applicant will not disturb these areas and shall undertake adequate mitigation measures to restore any damaged or lost resources. The applicant shall propose a mitigation plan that includes a timeline for restoration and mitigation of disturbed areas, and may include a performance guaranty ensuring fulfillment of, and compliance with, the mitigation plan. Buffer zones shall be established adjacent to areas of priority protection, as reasonably appropriate. ~~(See also § 7.3.3)~~

**8.11.4.5. Restoration, Protection and Preservation.** All development within the Environmental and Resource Protection Overlay zone shall ensure:

**1.** That restoration of previously disturbed or degraded areas;

**2.** That if the development site contains areas that connect to other off-site areas of a similar nature, to the maximum extent feasible, then the applicant shall preserve or mitigate such connections;

**3.** That important cultural resources, including historic, archaeological, and scenic resources are taken into consideration, and protected to the maximum extent feasible; and

**4.** That projects located adjacent to and within an O-ERP zone shall be designed

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to complement the visual context of the natural area. Techniques such as architectural design, site design, the use of native landscaping, choice of colors and building materials and lighting shall be utilized in such manner that scenic views across or through the site are protected, and manmade facilities are screened from off-site observers and blend with the natural visual character of the area.

**8.11.4.6. Encroachment.** Encroachment into or through the O-ERP zone may be permitted provided the following standards are met:

**1.** Roads, utilities and stormwater management facilities will be limited;

**2.** No more land shall be disturbed than is necessary; and

**3.** Indigenous habitat and other resources shall be preserved to the maximum extent feasible.

**8.11.4.7 Turquoise Trail Environmental and Resource Protection Overlay (TT O-ERP).**

**1. Purpose**. Some of the County's most significant resources are the views from the Turquoise Trail National Scenic Byway. The Turquoise Trail National Scenic Byway was forged centuries ago by Native Americans, miners and Spanish Conquistadores. The character of rural and scenic highway corridors should be preserved and protected as an important resource.

**2. Applicability.** The Turquoise Trail Environmental and Resource Protection Overlay (TT-OERP) is a segment of the Turquoise Trail National Scenic Byway on State Road 14 that extends one thousand (1,000) feet on either side of the centerline of SR14 and is identified on the Zoning Map.

**3. Sustainable Design Standards.** Sustainable design standards shall be as identified in Chapter 7 of this Code, except as prescribed below:

**a. Buffers:**

**i.** Nonresidential development is prohibited within 1,000 feet of the centerline of State Road 14.

**ii.** Nonresidential development requires a 2,000-foot wide buffer adjacent to a community overlay district.

**iii.** Residential development is required to provide a 500 foot wide buffer from centerline of State Road 14.

**iv.** Residential development is required to provide a 500 foot wide buffer adjacent to a community overlay district.

**8.11.5. Historic Preservation Overlay (O-HP).**

**8.11.5.1. Purpose.** As a matter of public policy, Santa Fe County aims to preserve, protect, enhance, and perpetuate the value of its historic areas through the establishment of Historic Preservation (O-HP) zones.

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**8.11.5.2. Implementation.** The O-HP zone implements:

**1.** The creation and adoption of guidelines and standards that will enhance the quality of life and encourage the preservation and enhancement of the community's important historic and cultural characteristics, including architectural styles and historic districts; and

**2.** Public involvement in developing area plans that define the character and pattern of development for historic districts and establish infill development guidelines.

**8.10.5.3. Designation Criteria.** To be designated as an O-HP zone, the site or area shall be accepted for listing or listed on the National or State Registers of Historic Places.

**8.11.5.4. Design Standards.** Development within an O-HP zone shall be consistent with design standards adopted at the time of the O-HP designation, which standards shall be derived from the appropriate provisions of the nominating forms for the National and/or State Registers of Historic Places.

**8.11.6. Airport Noise Overlay Zone (O-AN).**

**8.11.6.1. Short Name and Map Symbol.** The City of Santa Fe Municipal Airport Noise Impact Overlay Zone is referred to as the O-AN Zone, and is shown on the Zoning Map as O-AN.

**8.11.6.2. Purpose.** The O-AN Overlay Zone is intended to reduce the impact of aircraft noise on human health within the noise impact area surrounding the City of Santa Fe Municipal Airport. The zone achieves this by limiting residential uses and by requiring noise insulation, noise disclosure statements, and noise easements, as applicable.

**8.11.6.3 Applicability.** The O-AN Zone shall apply within the areas designated as O-AN on the Zoning Map. However, aircraft noise/land use control zone regulations in the O-AN Zone shall not apply to existing residential and non-residential development. Nor shall the control zone regulations apply to compatible land uses such as commercial, industrial, and office uses and/or vacant land zoned for such use, or vacant properties zoned for residential use prior to the adoption of the SLDC (unless an application proposes to eliminate or reduce noise/land use compatibility). This subsection shall not be construed to require the sound conditioning or other changes or alteration of any pre-existing structure not conforming to this subsection as of the effective date of the SLDC, or to otherwise interfere with the continuance of any pre-existing nonconforming use. Nothing in this subsection shall require any such change in the construction or alteration of a structure which was begun prior to the effective date of this part and is diligently pursued, or of property upon which development rights are vested.

**8.11.6.4. Location.** The boundaries of the Airport Noise Overlay are identified on the Zoning Map. The effect of noise generated by any other uses is not reflected in the DNL contours. The overlay district includes the following four zones which establish expected airport area intermittent noise levels, based on average ambient conditions and existing and projected aircraft operations:

**1. O-Zone.** The City of Fe Municipal Airport Noise Impact Overlay Zone is shown on the Zoning Map. The outside contour of the O-AN zone was accomplished based on two noise metrics (DNL and dBA Aircraft Noise Metric). The DNL metric is a day-night sound level used to present cumulative/average

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long term aircraft noise exposure. The dBA Aircraft Noise Metric is a single event maximum sound level measure used to describe peak noise levels of representative aircraft flyovers.

**2. O-AN Subzones.** There are three subzones within the O-AN Zone established according to the sound levels expected to be present within the subzone. The three subzones correspond to sound levels of 65 DNL or above, 60 DNL and 55 DNL, as established by a 2008 Noise Compatibility Study conducted pursuant to 14 CFR Part 150.

**3. Revised Contours.** The contours of the O-AN Zone and its subzones may be altered following a Part 150 study through an appropriate change to the Zoning Map.

**4. Map Corrections.** An owner may request that the Administrator initiate a correction to the location of the noise contours shown on the Zoning Map. The owner shall show, and the Administrator shall find, that the noise contours do not conform with the locations shown on the March 2008 14 CFR Part 150 Noise Compatibility Study by the City of Santa Fe, as amended or superseded by subsequent 14 CFR Part 150 studies.

**8.11.6.5 Residential Uses in the O-AN Zone.**

**1**. **Noise disclosure statement.** Before a development permit is issued for new residential construction (or reconstruction where the total cost of improvements is 75 percent or more of the total assessed improvement value of the site) in the O-AN zone, the owner shall sign a noise disclosure statement. The noise disclosure statement acknowledges that the property is located within the O-AN zone noise contour and signifies the owner's awareness of the associated noise levels associated with the airport. The noise disclosure statement shall be recorded in the Office of the County Clerk. A sample is available from the Administrator. If a property is subdivided, an appropriate disclosure shall be included in the subdivision disclosure statement, and each person subsequently coming into possession of a lot shall execute a noise disclosure statement prior to purchasing the lot.

**2. Noise easement in the 60 DNL.** Before a development permit is issued for new residential construction or reconstruction (where the total cost of improvements is 75 percent or more of the total assessed improvement value of the site) in the 60 DNL subzone, the owner shall dedicate and record a noise easement on the property. The easement shall authorize aircraft noise impacts over the property at levels established by the relevant DNL noise contour. Any increase of the DNL noise level above that stated on the easement will not void nor be protected by the easement. A sample easement form is available from the Administrator.

**3. Noise insulation required in 60 DNL.**

**a.** A new residential or nonresidential dwelling unit within the 60 DNL subzone shall be constructed with sound insulation or other means to achieve a day/night average interior noise level of no more than 45 dBA. Reconstructed dwelling units where the total cost of improvements is 75 percent or more of the total assessed improvement value of the site shall also meet this standard. Garages and similar accessory structures that do

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not include living area are not subject to this requirement.

**b.** A registered professional engineer in the State of New Mexico who has expertise or specializes in acoustical engineering shall certify that the building plans comply with the performance standard for sound insulation prior to the issuance of a building permit.

**4. New Residential Construction Within the 65 DNL Subzone.**

**a.** New residential construction is prohibited within the 65 DNL subzone. If a site is divided by a 65 DNL noise contour line, all residential construction shall be located entirely outside the 65 DNL subzone.

**b.** Residential housing that existed prior to enactment of the SLDC located within the 65 DNL noise contour, may remain and also may be replaced within five (5) years if damaged or destroyed by fire or other causes beyond the control of the owner.

**5. Prohibited Uses Within the 65 DNL Subzone.** The following uses are prohibited within the 65 DNL Subzone: hospitals, clinics, nursing homes, childcare facilities, nonresidential housing units, and schools (except for aviation-related training/educational facilities).

**6. Conditional Use Permit Required.** A conditional use permit is required to locate any hospital, clinic, nursing home, childcare facility, nonresidential housing unit, or school (except for aviation-related training/educational facilities) within the O-AN zone.

**8.11.7. Agriculture Overlay (O-AG).**

**8.11.8 Economic Development Overlay (O-ED)**

**8.12. ~~BONUS AND INCENTIVE ZONING~~DENSITY BONUS.** ~~[Reserved]~~

**8.12.1. Purpose.** The purpose of the Density Bonus section is to support continued farming and/or ranching activities, conserve open space, and protect scenic features and environmentally sensitive areas, that are not already protected, by clustering development to allow the remaining land to be protected. The density bonus provisions will be scaled based on the size of the tracts and the underlying zoning. Cluster development may be tied to community water and sewer services with minimum lot sizes in higher density area and zoning district.

**8.12.2.** A Density Bonus project may be approved on land zoned AR, RUR, RUR-F, RUR-R, RES-F, RES-E, and TC and containing the minimum lot size within each residential zone in accordance with the SLDC. If a property is governed by an adopted Community Overlay District, the respective provisions and regulations apply.

**8.12.3.** The Area required for a Density Bonus project within the RES-F and RES-E zones shall be 10 acres.

**8.12.4.** Density calculations by zone are outlined in Table -22.

**The following new Table 8-22 shall be added:**

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**Table 8-22: Density Bonus Calculations, Requirements and Criteria by Zoning District**

| Zoning District | Base Density | Density with Bonus | Bonus Calculation | Open Space Easement Required | Criteria |
|---|---|---|---|---|---|
| A/R | 1 du/160 acres | 1 du/80 acres | Base Density x 2 = Total Bonus Density | Three Quarters (.75) of the Total Site Area | Plat, Easement/Deed Restriction |
| RUR | 1 du/40 acres | 1 du/20 acres | Base Density x 2 = Total Bonus Density | Three Quarters (.75) of the Total Site Area | Plat, Easement/Deed Restriction |
| RUR-F | 1 du/20 acres | 1 du/10 acres | Base Density x 2 = Total Bonus Density | Three Quarters (.75) of the Total Site Area | Plat, Easement/Deed Restriction |
| RUR-R | 1 du/10 acres | 1 du/5 acres | Base Density x 2 = Total Bonus Density | One half (.5) of the Total Site Area | Plat, Easement/Deed Restriction/ Community Water |
| RES-F | 1 du/5 acres | 1 du/3.75 acres | Base Density x 1.33 = Total Bonus Density | One half (.5) of the Total Area | Minimum area of 10 acres, Plat, Easement/Deed Restriction, Community Water and Sewer |
| RES-E | 1 du/2.5 acres | 1 du/1.875 acres | Base Density x 1.33 = Total Bonus Density | One half (.5) of the Total Site Area | Minimum area of 10 acres, Plat, Easement/Deed Restriction, Community Water and Sewer |
| RES-C | 1 du/1 acre | 1 du/1 acre | Not Applicable | Not Applicable | Density bonus not available in this zone |
| TC | 1 du/ .75 ac. | 3 du/acre | Base Density x 2.25 = Total Bonus Density | Not Applicable | Community Water and Sewer |
| MU | 1 du/Acre | 2 du/acre | Base Density x 2 = Total Bonus Density | Not Applicable | Only for areas identified as Environmental Resource Protection Overlay; Historic Preservation Overlay or Agricultural Overlay Districts; cannot be used for required open space |
| PD | 1 du/Acre | 2 du/acre | Base Density x 2 = Total Bonus Density | Not Applicable | Only for areas identified as Environmental Resource Protection Overlay; Historic Preservation Overlay or Agricultural Overlay Districts; cannot be used for required open space |

**8.12.5.** All plats with approved density bonus shall comply with the provisions of Chapter 5 (Subdivision and Land Division) and Chapter 4 (Procedures) for total number of lots created.

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**8.12.6.** The open space easement shall be used exclusively for agriculture, landscaping, recreation, open space or any combination thereof and any accessory structures needed to support these uses.

**8.12.7**. The area of land covered by the open space easement shall be a contiguous area unless otherwise approved. Considerations for approval on non-contiguous open space areas include:

**8.12.7.1.** Irrigated lands that are separate.

**8.12.7.2.** Special features to be protected such as rock outcroppings, arroyos, archaeological sites, scenic features and environmental sensitive areas that are separate.

**8.12.8**. For the purposes of preserving areas to include open space, scenic features and environmentally sensitive areas the open space easement areas shall be visible from a public right-of-way, except where impractical.

**8.12.9.** Land used for streets, driveways, parking, sidewalks and private yards may not be counted as part of an open space easement. No buildings or structures are permitted in an open space easement except those necessary to support the operation and maintenance of the easement. An open space easement may include underground utility easements.

**8.12.10.** Refer to Section 7.15.3.5 for covenants governing the restriction of the open space easement.

**8.12.11.** A density bonus shall be utilized within the same parcel of land.

**8.12.12.** A density bonus shall be utilized within the same zoning district on the parcel.

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# Chapter 10 – Supplemental Zoning Standards

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# CHAPTER TEN – SUPPLEMENTAL ZONING STANDARDS

## 10.1. PURPOSE.

**10.1.1.** This chapter establishes additional or alternative standards for particular uses. The purpose of this chapter is to establish standards for specific uses which require special design considerations in order to: protect surrounding property values and uses; protect the public health, safety, and general welfare; and implement the SGMP. These standards seek compatibility with the principal uses permitted in a zoning district. It is the intent of the County that supplemental uses comply with the standards that have been created to address the particular impacts and characteristics.

**10.1.2.** This chapter provides supplemental standards for certain uses, structures, and facilities. These standards are in addition to the other applicable standards of the SGMP. In some cases, the establishment of these standards streamlines the permitting process by permitting the use as of right in certain districts subject to the supplemental regulations. In other instances, the unique development challenges of certain uses and structures require case-by-case consideration under the conditional use permit process.

## 10.2. GENERALLY.

**10.2.1. Applicability.** These regulations shall apply to all zoning districts in which the particular use being regulated is permitted.

**10.2.2 Compliance Mandatory.** No supplemental use may be initiated, established, or maintained unless it complies with the standards set forth for such use in this chapter.

**10.2.3. Requirements Supplement.** The requirements of this chapter shall supplement the requirements of the applicable base and overlay zoning district regulations and the other applicable standards of this chapter. These standards are in addition to, and do not replace, the other standards for development set forth in other chapters of the SLDC unless otherwise provided. To the extent that there is a conflict between a standard in another chapter of the SLDC and a standard in this chapter, the standard in this chapter governs unless otherwise indicated.

## 10.3. ACCESSORY STRUCTURES.

**10.3.1. Applicability.** Where a principal use or structure is permitted, the Use Matrix may permit certain accessory structures subject to this section. Accessory structures shall be clearly incidental and subordinate to the principal use, customarily found in connection with the principal use, and located on the same tract or lot as the principal use.

**10.3.2. Requirements.**

**10.3.2.1.** Accessory structures shall not be constructed or established on a lot until construction of the principal structure is completed or the principal use is established; however, an accessory structure may be constructed before the principal structure when development approval has been granted for both the principal and accessory structures.

**10.3.2.2.** The accessory structure shall share a driveway and utilities with the principal use or structure unless prohibited by terrain constraints.

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**10.3.2.3.** The accessory structure shall not contain a kitchen or cooking facilities, including kitchen appliances, unless approved as part of an approved home occupation or non-residential use. If a kitchen is provided for such use, the accessory structure shall not also contain a bath or shower.

**10.3.2.~~2~~4.** Agricultural and grazing and/or ranching accessory structures shall be permitted on property where the principal use is agriculture, grazing and/or ranching, provided that a development permit is obtained in accordance with the siting and design standards of this SLDC.

**10.3.2.~~2~~5.** Accessory structures used for dwelling purposes are governed by § 10.4.

## 10.4. ACCESSORY DWELLING UNITS.

**10.4.1. Purpose and Findings.** Accessory dwellings are an important means by which persons can provide separate and affordable housing for elderly, single-parent, and multi-generational family situations. This section permits the development of a small dwelling unit separate and accessory to a principal residence. Design standards are established to ensure that accessory dwelling units are located, designed and constructed in such a manner that, to the maximum extent feasible, the appearance of the property is consistent with the zoning district in which the structure is located.

**10.4.2. Applicability.** This section applies to any accessory dwelling unit located in a building whether or not attached to the principal dwelling. Accessory dwelling units shall be clearly incidental and subordinate to the use of the principal dwelling. Accessory dwelling units are permissible only: (a) where permitted by the Use Matrix; and (b) where constructed and maintained in compliance with this §10.4.

**10.4.2.1. Number Permitted**. Only one accessory dwelling unit shall be permitted per legal lot of record.

**10.4.2.2. Size.** The heated area of the accessory dwelling unit shall not exceed the lesser of: (a) fifty percent (50%) of the building footprint of the principal residence; or (b) 1,200 square feet.

**10.4.2.3. Building and Site Design.**

**1.** In order to maintain the architectural design, style, appearance, and character of the main building as a single-family residence, the accessory dwelling unit shall be of the same architectural style and of the same exterior materials as the principal dwelling.

**2.** An accessory dwelling shall not exceed one story in height and may not exceed the height of the principal dwelling unit.

**3.** An accessory dwelling shall be accessed through the same driveway as the principal residence. There shall be no separate curb cut or driveway for the accessory dwelling.

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**10.4.2.4. Utilities.** Water and electricity for the accessory dwelling unit shall be shared with the principal residence. Liquid waste disposal shall be in common with the principal residence; however, if the principal residence is on a septic system, then any modifications to the system to accommodate the accessory dwelling unit shall be approved by NMED.

## 10.5. GROUP HOMES.

**10.5.1. Purpose and Findings**. This section is designed to protect the rights of handicapped and disabled persons subject to the federal Fair Housing Act (FHA), 42 U.S.C. § 3601 et seq. and the Developmental Disabilities Act [§§ 28-16A-1 to 28-16A-18 NMSA 1978], and to accommodate housing for persons protected by the FHA by establishing uniform and reasonable standards for the siting of group homes and criteria that protect the character of existing neighborhoods.

**10.5.2. Applicability.** This section applies to all group homes. For purposes of this section, a "group home" means a residential facility in which any handicapped or disabled persons unrelated by blood, marriage, adoption, or guardianship reside with one or more resident counselors or other staff persons.

**10.5.3. Location.** Group homes are permitted as of right in all residential zoning districts, all commercial zoning districts, and other zones as specified in the SLDC. Pursuant to the requirements of the federal FHA and applicable case law, the SLDC does not require a conditional use permit or any other form of discretionary development approval for a group home. A variance is required only to the extent that the group home seeks a variance from the standards that apply to other uses in the base zoning district.

**10.5.4. Standards.** The standards applicable to group homes are the same as for single-family dwelling units located within the base district. Evidence of any license, certification, or registration required for the group home by State or federal standards, or a copy of all materials submitted for an application for any such license, shall be provided.

## 10.6. HOME OCCUPATIONS.

**10.6.1. Purpose.** The Purpose of this section is to stimulate economic development in the County and promote energy efficiency by promoting home occupations and home businesses while ensuring the compatibility of home based businesses with other uses permitted in the community. Any home-based business that exceeds the standards of this section, either at its commencement or through business growth, shall be located in or relocated to an appropriate nonresidential area.

**10.6.2. Permit Required.** Home occupations require a permit as specified in Table 10-1. A permit will <u>not</u> be issued for a home occupation where:

**10.6.2.1.** Code violations are present on the property;

**10.6.2.2.** Adequate access is not available;

**10.6.2.3.** Adequate infrastructure is not in place;

**10.6.2.4**. roofing or towing business, construction yard, port-a-potty leasing, vehicle leasing, crematories, auto paint and body shop or heavy industrial uses.

**10.6.3. Requirements for all home occupations.**

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**10.6.3.1. Location.** A home business may be located in any residential district, subject to the provisions of this section.

**10.6.3.2. Owner-occupied.** The operator of the home business shall reside in a dwelling unit on the property.

**10.6.3.3. Hours of Operation.** All employee ingress/egress activity and deliveries shall occur between the hours of 8 a.m. and 8 p.m. Monday through Saturday.

**10.6.3.4. Signage.** Signage is governed by Table 10-1 and §7.9.4.3.

**10.6.3.5. Exterior Storage.** Limited storage of business-related property is allowed outside of the residence, but the storage area shall count as part of the square footage allocation shown in Table 10-1 and shall be shielded from the view of nearby properties. Where additional storage is allowed in accessory buildings, no display of goods or merchandise shall be visible from outside the enclosed building space, and a partition wall at least six feet in height shall separate business storage from other residential storage space.

**10.6.3.6. Noise, Vibration, Glare, Fumes and Odors.** The home business shall not create noise, vibration, glare, fumes or odors detectable to reasonable sensory perception outside the boundaries of the property.

**10.6.4. Types of Home Occupations.** The three categories of home occupations are described below and the requirements for each are set forth in Table 10-1.

**10.6.4.1. No Impact Home Occupation.** A "no impact" home occupation includes business activity by the resident and up to one non-resident employee. All business activity shall occur within the home and any permitted accessory buildings. A "no impact" home occupation is one in which there is no exterior evidence that business is occurring on property.

**10.6.4.2. Low Impact Home Occupation.** A low impact home occupation includes business activity by the resident and up to three non-resident employees. A "low impact" home occupation is one in which the business is allowed a limited number of visitors/appointments and a small identification sign. The only exterior evidence of the home business is in the form of slightly increased visitation and/or traffic.

**10.6.4.3. Medium Impact Home Occupation.** A medium impact home occupation includes business activity by the resident and up to five non-resident employees. Because of the larger impacts from increased employees and visitors, a medium impact home occupation requires a Conditional Use Permit to determine whether the business is appropriate for the area and whether additional conditions are required to ensure the residential character of the area is maintained.

**Table 10-1: Home Occupation Requirements.**

| | **No Impact** | **Low Impact** | **Medium Impact** |
|---|---|---|---|
| **Permit type** | Business Registration | Development Permit | Conditional Use Permit |
| **Non-resident employees (max)** | 1 | 3 | 5 |

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| | | | |
|---|---|---|---|
| **Area used for business (maximum)** | 25% of heated square footage | 35% of heated square footage | 50% of heated square footage |
| **Accessory building storage** | 100 SF | 600 SF | 1,500 SF |
| **Appointments/patron visits (max/day)** | 0 | 4 | 12 |
| **Business traffic** | none | see §10.6.5 | see §10.6.5 |
| **Signage** | not permitted | see §7.9.4.3 | see §7.9.4.3 |
| **Parking and access** | Resident and employee only | see §10.6.5 | see §10.6.5 |
| **Heavy Equipment** | None | Up to 2 | 3-6 |

**10.6.5. Parking and Access Requirements for Low and Medium Impact Home Occupations.**

**10.6.5.1. Parking.** Parking associated with the home occupation shall be regulated as follows:

**1.** Vehicles associated with the business shall not be stored, parked or repaired on public rights-of-way. On-site parking for all associated vehicles shall be provided.

**2.** The parking, storage, repair or use of any commercial scale vehicle or equipment shall not be allowed.

**3.** Parking spaces needed for employees or customers/clients shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed and surfaced appropriately.

**4.** Vehicles to be repaired shall be located within an enclosed building or in an area not visible from public view.

**10.6.5.2. Traffic.** The maximum number of vehicles that are associated with the business and located on the subject property shall not exceed six at any time, including, but not limited to, employee vehicles, customer/client vehicles, and vehicles to be repaired. No more than two pieces of heavy equipment may be located on the property at any time for a low impact home occupation. A Conditional Use Permit is required for any more than two pieces of heavy equipment for a Medium Impact Home Occupation.

## 10.7. RESIDENTIAL CONDOMINIUMS.

**10.7.1. Applicability.** This section applies to all residential condominium declarations recorded on or after the date of the adoption of the SLDC that either create or amend an existing condominium declaration to create condominium units or change the number of condominium.

**10.7.2. Requirements.** A condominium shall comply with the requirements of Chapter 8 (Zoning) and Chapter 5 (Subdivisions). No condominium declaration may be recorded in the Office of the County Clerk in the absence of a written verification from the Administrator that the condominium complies with these Chapters.

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**10.7.3. Written Confirmation of Compliance.** If the proposed or amended condominium declaration complies with § 10.7.2., the Administrator shall issue a written confirmation to the condominium declarant for inclusion in the contents of the condominium declaration as required by 47-7B-5 NMSA 1978. The Administrator shall maintain copies of written confirmations issued pursuant to this subsection.

**10.7.4. Existing Residential Condominiums.**

**10.7.4.1. Conforming.** A condominium (including constructed condominium units and unconstructed condominium units) is in conformance with this section when:

**1.** The condominium meets the zoning density requirements of Chapter 9 of this SLDC; or

**2.** The condominium met the zoning density requirements in effect when the most recent condominium declaration was recorded; and

**3.** The condominium meets the requirements set forth in the New Mexico Subdivision Act as set forth in Chapter 5.

**10.7.4.2. Nonconforming.** A condominium (including constructed condominium units and unconstructed condominium units) existing at the adoption of this section that is not in conformance with subsection 10.7.4.1 above is a nonconforming condominium. Nonconforming condominiums are subject to the following:

**1. Constructed Units.** Constructed condominium units are legal nonconforming uses and structures with regard to the density requirements of Chapter 9. A constructed condominium unit that is destroyed by any means may be reconstructed only if the reconstructed unit at the time of reconstruction is made to comply with all other applicable sections of the SLDC in effect.

**2. Unconstructed Units.** Unconstructed condominium units in excess of the zoning density requirements of Chapter 9 are not legal and may not be developed.

**3. Units Constructed without Required Approvals.** Units that were constructed without required development approvals are not legal. Such units shall be brought into compliance with the SLDC.

**10.8 BORROW.** No on-site borrow may be removed from a site except removals associated with a grading permit granted by the Administrator, without a conditional use permit; provided, however, that building materials such as adobes and rammed dirt may be excavated as a part of construction on the property without a permit.

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**Table 10-2: Temporary Uses.**

| Activity | Permitted district | Duration | Maximum times/year per lot/parcel | Permit required? |
|---|---|---|---|---|
| Auctions | any | 3 days | 1 | no |
| Christmas tree sales | CG, CN, I, IL, P/I, MU, PD, A/R, RUR, TC | 60 days | 1 | no |
| Office in a model home | any | 24 months, renewable for additional (up to) 12 month periods | n/a | yes |
| Fireworks stand | CG, I | 30 days | 1 | yes |
| Temporary outdoor retail sales | CG, CN | 10 days | 4 | yes (unless shown on approved site development plan) |
| Produce stand or farmers' market | ~~Ag/Ranch, RUR, RUR-F, RUR-R, RES-F, TC~~ any | 90 days renewable for additional (up to) 6 month periods | n/a | no |
| Public assembly (carnival, fair, circus, festival, show, exhibit, concert, or similar | CG, CN, I, IL, P/I, MU, PD, A/R, RUR. RUR-F. | up to 2 weeks | n/a | yes |
| Yard/garage sales | any residential | 2 consecutive days, limited to daylight hours | n/a | no |
| Film production | any | As needed | n/a | yes |

## 10.9. TEMPORARY USES.

**10.9.1. Applicability.** Authorized temporary commercial uses are authorized so long as all requirements of this section are complied with. Table 10-2 provides the rules under which the temporary uses may be accommodated. Additional requirements for certain uses are included in subsections 10.9.2 – 10.9.6.

**10.9.2. Constructed Temporary Uses.** Temporary buildings and structures are permitted in any zoning district while approved building, land development or redevelopment is occurring. Such buildings or structures may include offices, construction trailers or construction dumpsters and storage buildings.

**10.9.3 Dumpsters.** Construction dumpsters are subject to the following:

**10.9.3.1.** No construction dumpster may impede pedestrian or vehicular access to and from adjoining properties or otherwise create an unsafe condition for pedestrian and vehicular traffic;

**10.9.3.2.** Every construction dumpster shall clearly identify the owner of such dumpster and telephone number and shall be clearly labeled for the purpose of containment of construction materials only; and

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**10.9.3.3.** Every construction dumpster shall be routinely emptied so it does not create an unsightly or dangerous condition on the property resulting from the deposit, existence, and accumulation of construction materials and stagnant water.

**10.9.4. Public Assembly.** Temporary buildings, structures, or tents for public assembly (including carnivals, circuses, and similar events) are permitted as specified in table 10-2~~in areas zoned for commercial and industrial uses~~, provided that:

**10.9.4.1.** No such building, structure, or tent shall be permitted to remain on the site for a consecutive period exceeding two weeks;

**10.9.4.2.** Sufficient space for parking shall be provided on the site to meet the anticipated needs;

**10.9.4.3.** Adequate provision shall be made for utility services; and

**10.9.4.4.** No exterior amplifiers, speakers, or other similar equipment shall be permitted outside of the temporary building, structure, or tent.

**10.9.5. Yard/Garage Sales.** Outdoor yard/garage sales are permitted in all residential zoning districts without a permit. Items purchased elsewhere expressly for resale at a yard/garage sale are prohibited. Goods intended for sale shall not be stored or displayed in the front or side yards of a dwelling except on the day or days of the sale. Commercial outdoor sales activities are prohibited. For purposes of this subsection, a "yard/garage sale" means a public sale at a dwelling at which personal items belonging to the residents of the dwelling are sold.

**10.9.6. Film Production and Related Activity.** *See* County Ordinance 2010-6.

**10.9.7. Removal of Temporary Structures.** Structures related to a temporary use shall be completely removed within 60 days of the expiration of the permit for the temporary use.

## 10.10. ITINERANT VENDORS.

### 10.10.1. Applicability; Exceptions.

**10.10.1.1.** This section shall apply to the activities of itinerant vendors operating within the County.

**10.10.1.2.** The provisions of this section shall not apply to persons, business entities or their agents selling only fruits, vegetables, berries, eggs, or any farm produce in accordance with the locations and durations identified in Table 10-2.

**10.10.2. License/Permit.** An itinerant vendor shall operate at all times under an approved business license issued by the County. An itinerant vendor operating in a Traditional Community, shall obtain a conditional use permit and a business license.

**10.10.3. Standards.** Itinerant vendors shall conform to the following standards:

**10.10.3.1.** An itinerant vendor may only operate in non-residential, mixed-use and traditional community zones as defined in Chapter 8.

**10.10.3.2.** An itinerant vendor shall not obstruct, or cause or permit the obstruction of, the passage of any sidewalk, road, avenue, alley or any other public place, by reason of

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people congregating at or near the place where goods, wares, food, or merchandise of the vendor is being sold or offered for sale.

**10.10.3.3.** An itinerant vendor shall locate outside of any public right of way and shall not locate a vehicle, other conveyance, temporary stand, or merchandise within twenty feet (20') of any public road or within twenty feet (20') of the intersection of any public road and private driveway. Access to the itinerant vendor's vehicle, conveyance or stand from a public right-of-way shall be clear and unobstructed and shall not impede the ordinary flow of traffic on said right-of-way.

**10.10.3.4.** Permits for signs or signage shall be in accordance with Section 7.9.12.

**10.10.3.5.** No vehicle, other conveyance or temporary stand of an itinerant vendor shall be located closer than twenty feet (20') from any building or structure on the licensed property or adjoining property.

**10.10.3.6.** No vehicle, other conveyance or temporary stand of an itinerant vendor shall locate closer than fifty feet (50') from flammable combustible liquid or gas storage and dispensing structures.

**10.10.3.7.** All itinerant vendors shall place at least one (1) thirty (30) gallon garbage receptacle upon the site.

**10.10.3.8.** Itinerant vendor sites shall be cleaned of all debris, trash, and litter at the conclusion of daily business activities. Additionally, all vehicles, trailers, displays, pushcarts or other conveyances containing the wares of itinerant vendors shall be removed from the vendor site at the conclusion of each daily business activity.

**10.10.3.9.** An itinerant vendor shall not sell or vend from his or her vehicle or conveyance:

**1.** Within three hundred feet (300') of any public or private school grounds during the hours of regular school session, classes, or school related events of said public or private school, except when authorized by said school.

**2.** Within three hundred feet (300') of the entrance to any business establishment while open for business that offers for sale as a main featured item or items similar to those of the itinerant vendor, unless authorized by said business owner.

**3.** Within three hundred feet (300') of any public park where any county authorized concession stand is located during times other than during the course of a public celebration or unless approved by the Administrator.

**10.10.3.10.** An itinerant vendor that operates continuously at the same location, may only operate at that location for a total of 60 days in any calendar year and shall relocate to a new location or cease to operate.

**10.10.4. Health Regulations.** All itinerant food vendors shall comply with all laws, rules, and regulations regarding food handling, and all vehicles used for the sale of food shall comply with all the laws, rules, and regulations respecting such vehicles as established by the New Mexico Environment Department and the County.

**10.11. RETAIL OUTDOOR SALES.**

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**10.11.1. Applicability.** This section applies to the regular sales and display of retail goods in parking areas, sidewalks, and other locations outside of an enclosed building. This section does not apply to farmers' markets or produce stands where permitted by the applicable zoning district. Temporary outdoor retail sales are governed by §10.9.

**10.11.2. Permitted.**

**10.11.2.1.** Outdoor sales and display of retail goods, wares, and merchandise are permitted accessory uses in the Commercial General (CG) and Mixed Use (MU) districts if shown on the approved site development plan.

**10.11.2.2.** An outdoor sales and display shall be customarily incidental to a principal use in the district in which the outdoor sales and display is permitted. Only the business or entity occupying the principal use or structure shall sell merchandise in the outdoor display areas, except as provided in §10.10 (Itinerant Vendors).

**10.11.2.3.** An outdoor display is subject to a minimum setback of 20 feet from an adjoining property line.

**10.11.2.4.** Outdoor display shall be screened from view along any property line abutting a residential zoning district. To the extent that buildings on the premises are located in order to screen views from adjacent roads and properties, such buildings may be considered to be part of the required screening in lieu of landscaping, fences, walls, and enclosures.

**10.11.2.5.** All outdoor displays shall be located on the same lot as the principal use.

**10.11.2.6.** Areas used for such display shall be furnished with a hard surface material.

**10.11.2.7.** Merchandise shall not be placed or located where it will interfere with pedestrian or building access or egress, required vehicular parking and handicapped parking, aisles, access or egress, loading space parking or access, public or private utilities, services or drainage systems, fire lanes, alarms, hydrants, standpipes, or other fire protection equipment, or emergency access or egress.

**10.11.2.8.** Outdoor display areas shall not be located on any parking spaces needed to comply with the minimum parking ratios Chapter 7. Outdoor display areas shall be considered part of the floor area of the principal use or structure for purposes of computing the minimum number of parking spaces required.

## 10.12. INDUSTRIAL OUTDOOR STORAGE.

**10.12.1. Purpose and Findings.** This section establishes regulations for permanent storage areas in the "I" (Industrial) zoning district.

**10.12.2. Applicability.** This section applies to industrial outdoor storage (with the exception of salvage operations and yards as defined and regulated by the SLDC), including contractors' yards, building supply sales, coal sales and storage and scrap metal storage.

**10.12.3. Standards.** Storage yards shall be:

**10.12.3.1.** Enclosed by a non-climbable fence or wall at least six feet in height; and

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**10.12.3.2.** Screened from view along any property line abutting a residential zoning district.

## 10.13. SELF-STORAGE FACILITIES.

**10.13.1. Purpose and Findings.** This section establishes standards to permit the establishment of self-storage facilities, along with standards designed to protect surrounding neighborhoods and to implement the SGMP.

**10.13.2. Applicability.** This section applies to any self-storage facility.

**10.13.3. Standards.**

**10.13.3.1.** The total area covered by building shall not exceed 50 percent of the site.

**10.13.3.2.** No outside storage is permitted except outdoor storage of recreational vehicles and boats in areas so designated on an approved site development plan.

**10.13.3.3.** The storage of hazardous, toxic, or explosive substances, including, but not limited to, but excluding the storage of, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage, or used oil, is prohibited.

**10.13.3.4.** The facility shall be enclosed by a non-climbable fence or wall at least six feet in height; and

**10.13.3.5.** The facility shall be screened from view along any property line abutting a residential zoning district.

**10.13.3.6.** No business activity other than the rental of storage units shall be conducted on the premises.

**10.13.3.7.** One dwelling unit is permitted on the same lot for use as a caretaker dwelling.

## 10.14. MOBILE HOME PARKS.

**10.14.1. Applicability.** Regardless of whether a mobile home park is a subdivision, condominium, or site-lease facility, the provisions of this section shall apply in addition to the other applicable provisions of the SLDC, including the density provisions of the zoning district in which the park is located.

**10.14.2. Design Standards.** All mobile home parks shall comply with the following design standards. For mobile home parks that are subdivisions, the design standards of this section shall supersede any conflicting standards of Chapter 5 (Subdivisions and Land Divisions).

**10.14.2.1.** Home sites/lots shall have a minimum lot size of thirty-five hundred (3,500) square feet. Note that the zoning requirements of the district in which the park is located (see Chapter 8) may dictate a larger minimum lot size.

**10.14.2.2.** Mobile homes shall be located on each lot so as to provide:

**1.** Not less than twenty (20) feet of clearance between mobile homes;

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**2.** Not less than ten (10) feet between a mobile home and any other structure within the park, including storage units, porches or portals;

**3.** Not less than ten (10) feet between a mobile home and any property line of the park which does not abut upon a public road or highway;

**4.** Not less than twenty-five (25) feet between a mobile home and any property line of the park abutting upon a public road or highway, unless the zoning standards of the district require a greater setback; and

**5.** For the purpose of this Section, the distance from a mobile home shall be calculated to include any porch, attached room or deck, or any similar addition or improvement.

**10.14.2.3.** Two (2) off-road parking spaces shall be provided for each mobile home space, which shall be gravel or paved in concrete or asphalt.

**10.14.2.4.** Walkways from all mobile home spaces to all common areas within the mobile home park shall be provided, and such walkways shall not be less than thirty six (36) inches wide and constructed of a hard surface material (e.g., concrete, asphalt, brick or flagstone).

**10.14.2.5.** Lighting shall be provided for all roads and walkways.

**10.14.2.6.** Roads within the park shall comply with Chapter 7.

**10.14.2.7.** The perimeter of the park shall be landscaped to blend with the surrounding land contours and vegetation.

**10.14.2.8.** A step pad shall be located adjacent to each mobile home stand and constructed of hard surface material (e.g., concrete, asphalt, brick or flagstone), with a minimum area of seventy two (72) square feet and a minimum thickness of four (4) inches.

**10.14.2.9.** All service buildings and grounds of the mobile home park shall be maintained in a clean condition and kept free of any conditions that will menace the health or safety of any occupant and the public and shall not constitute a nuisance.

**10.15. TRADE CONTRACTOR~~COMMUNITY SERVICE FACILITIES~~.**

**10.15.1.** Applicability. This section shall apply to all trade contractor businesses.

**10.15.2.** Standards. Trade contractor businesses located within a Residential Base Zoning District shall meet design standards within this SLDC in addition to the following standards:

**10.15.2.1.** No more than five (5) large commercial vehicles shall be permitted in a trade contractor business;

**10.15.2.2.** Outside storage shall not exceed 1500 square feet, including vehicle storage, and shall be screened by a six-foot high solid wall or fence. All other storage shall be within a building.

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~~**10.15.1.** General Requirements. Community service facilities are facilities which provide service to a local community organization. These may include governmental services such as police and fire stations, elementary and secondary day care centers, schools and community centers, and churches.~~

~~**10.15.2.** Standards. Community service facilities are allowed anywhere in the County, provided all requirements of the Code are met, if it is determined that:~~

~~**10.15.2.1.** The proposed facilities are necessary in order that community services may be provided for in the County;~~

~~**10.15.2.2.** The use is compatible with existing development in the area and is compatible with development permitted under the Code; and~~

~~**10.15.2.3.** A master plan and preliminary and final development plan for the proposed development are approved.~~

## 10.16. WIND ENERGY FACILITIES.

**10.16.1. Purpose.** The purpose of this section is to promote environmental sustainability, economic development, public safety and general welfare by fostering the development of the County's wind power resources and by providing standards for the safe, sustainable design and aesthetic provision of wind energy facilities.

**10.16.2. Conflict.** If any provision of this section imposes restrictions in conflict with those of any Chapter of the SLDC, or any other ordinance, rule, regulation, statute or other provision of law, the provision that is more restrictive or imposes higher standards shall control, unless preempted by federal or state law.

### 10.16.3. General Requirements.

#### 10.16.3.1. Appearance.

**1.** No wind energy facility shall be used for signage, promotional or advertising purposes, including but not limited to company names, phone numbers, flags, banners, streamers, or balloons except for equipment manufacturer's name or logo on the equipment itself.

**2.** Wind energy facilities shall be painted or finished with a non-reflective, unobtrusive color and shall incorporate non-reflective surfaces to minimize visual disruption.

**3.** No wind energy facility shall be artificially lighted except to the extent required by the federal Aviation Administration or other applicable authority.

#### 10.16.3.2. Safety Standards.

**1.** Towers shall be constructed to provide one of the following means of access:

**a.** Tower climbing apparatus located no closer than twelve (12) feet from the ground;

**b.** A locked anti-climb device installed on the tower; or

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**c.** A locked protective fence at least six feet in height that encloses the tower.

**2.** All wiring shall be underground, except for:

**a.** Wiring that runs from the turbine to the base of the wind energy facility; and

**b.** "Tie-ins" to a public utility transmission poles, towers and lines.

**3.** At least two signs shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery.

**4.** Anchor points for any guy wires for a system tower shall be located within the site and not on or across any above-ground electrical transmission lines. The point of attachment for the guy wires shall be enclosed by a fence or sheathed in bright orange or yellow covering from three to eight feet above the ground.

**5.** The wind energy facility shall be equipped with an automatic and redundant braking or governing system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.

**6.** The wind energy facility shall not interfere with electromagnetic communications such as radio, telephone or television or emergency communication systems. If it is demonstrated that a facility is causing disruptive interference beyond the site, the operator or owner shall promptly eliminate the disruptive interference or cease operation of the facility and remove it pursuant to §10.16.4.3.

**7.** The wind energy facility shall meet all applicable federal, State and County Fire Prevention and Building Code requirements.

**8.** If connected to a public utility system for net-metering purposes, the facility shall meet the requirements for interconnection and operation as set forth in the public utility's current service regulations applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.

**9.** If more than one wind energy facility is installed, a distance equal to 1 times the height of the tallest small-scale wind energy facility shall be maintained between the bases of each wind energy facility.

**10.** For building-mounted wind systems, a letter or certificate bearing the signature of a duly registered New Mexico professional engineer shall be submitted to the Administrator, indicating that the existing structure onto which the wind energy facility is capable of withstanding the additional load, force, torque, and vibration imposed by the wind energy facility for the foreseeable future; will comply with seismic and structure provisions set out in County and State building codes; and if constructed in accordance with the plans, the entire facility, including the building onto which the facility will be attached, will be safe, will be in accordance with all applicable governmental building codes, laws, and regulations, and in accordance with generally accepted engineering practices

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and industry standards, including, without limitation, acceptable standards for stability, wind and ice loads.

**10.16.4 Small-Scale Wind Energy Facilities.** Small-scale wind facilities are designed for single parcel use and not for selling power to other entities, and are equal to or less than ninety (90) feet in total height above ground level including the highest extension of the turbine blade.

**10.16.4.1. Development Standards.**

**1.** No exposed moving part of any small-scale wind energy facility shall, at the lowest point of its extension, be less than twenty (20) feet above the ground. Notwithstanding the foregoing, the lowest extension of any blade or other exposed moving component of the facility shall be at least fifteen (15) feet above the ground (at grade level) and in addition at least fifteen (15) feet above any outdoor surfaces intended for human occupancy, such as swimming pools, recreational facilities, back yards, balconies or roof gardens, that are located directly below the facility. All building mounted facilities shall be attached to a building, garage or separate structure.

**2.** For parcels up to ten acres in size, only one turbine shall be permitted. The maximum height of the tower and turbine blade shall not exceed 55 feet.

**3.** For parcels equal to or greater than 10 acres, the maximum height of the tower and turbine shall not exceed 90 ft.

**10.16.4.2. Noise.** Small-scale wind energy facilities shall not exceed 55 dBA or 5 dBA above ambient noise levels, whichever is less as measured at the property line. The level, however, may be exceeded during short-term events such as utility outages or severe wind storms.

**10.16.4.3. Removal.**

**1**. If any small-scale wind energy facility ceases to perform its originally intended function for more than twelve (12) consecutive months, or the facility is required to be dismantled, the property owner shall so notify the Administrator in writing within thirty (30) days after the end of such twelve-month period, and the property owner shall remove the tower, rotor, guy wires, and associated equipment and facilities by no later than ninety (90) days after the end of the twelve (12) month period.

**2**. If the property owner fails to remove the small-scale wind energy facility within the time frame described above, the small-scale wind energy facility shall be deemed a public nuisance subject to the provisions of Chapter 14.

**10.16.5. Large Wind Energy Facilities.** A large wind energy facility is any wind-based electric generating facility that generates power for sale or profit, in excess of 90 feet in height as measured from the lowest level or portion of the wind energy facility (slab or base) in contact with the ground surface to the highest point of any part of the facility, with moving parts measured at the highest points of their extension.

**10.16.5.1. Procedural Requirements.**

**1. Development approval.** A large wind energy facility shall obtain a conditional use permit..

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**2. Modification to Existing Facility.** Any substantial physical modification to an existing and permitted large wind energy facility that materially alters the size or type of turbines by more or other equipment shall require a conditional use permit amendment. Like-kind replacements, repairs or maintenance made within ninety (90) days of the large wind energy facility part needing replacement shall not require a permit modification. For the purposes of this section, "substantial physical modification" means an alteration visible by a person of normal vision from a property line or a public road or an alteration having a cost greater than or equal to five percent (5%) of the assessed value of the facility.

**10.16.5.2. Design and Installation.**

**1. Design Safety Certification.** The design of the facility shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanishcer LloydSE, or other similar certifying organizations.

**2. Setbacks.**

**a.** Buildings and accessory structures shall be at least one hundred (100) feet distant from the property boundary.

**b.** Wind turbines shall be set back from the nearest on-site building or structure a distance of not less than two times the height of the tower and turbine total height of the tower and turbine shall be required from all property lines.

**c.** Wind Turbines shall be set back from the nearest occupied building or structure located on an adjacent landowner's property a distance of not less than five (5) times the total height of the turbine tower and blade, as measured from the center of the turbine base to the nearest point on the foundation of the occupied building.

**d.** Large-scale wind energy facilities are prohibited within 500 feet of public parkland, areas of historical or cultural significance, natural areas and nature preserves.

**e.** Wind turbines shall be set back from the nearest public right-of-way a distance of not less than two times the total turbine height, as measured from the right-of-way line of the public road to the center of the turbine base.

**f.** Large scale wind energy facilities shall be set back a distance of not less than eight times the total turbine height from public parkland, areas of historical or cultural significance, a natural area, or nature preserves.

**3. Use of public roads.**

**a.** The applicant shall identify all state and local public roads to be used within the County to transport equipment and parts for construction,

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operation or maintenance of the large wind energy facility.

**b.** The County Department of Public Works or a qualified third party engineer hired by the County and paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

**c.** The County may require that the applicant provide a permanent bond against any damage to the road from the transportation of the large wind turbine to and from the site.

**d.** Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.

**e.** The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

**10.16.5.3. Local emergency services.**

**1**. The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer fire departments; and

**2**. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the facility.

**10.16.5.4. Noise.** Audible sound from a large energy facility shall not exceed fifty-five (55) dBA or 5 dBA above ambient whichever is less as measured at the property line. The level, however, may be exceeded during short-term events such as utility outages or severe wind storms. Methods for measuring and reporting acoustic emissions from wind turbines and the large wind energy facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1-1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.

**10.16.5.5. Signal interference.** The facility shall not interfere with electromagnetic communications such as radio, telephone or television or emergency communication systems. If it is demonstrated that a facility is causing disruptive interference beyond the site, the applicant shall mitigate any interference with electromagnetic communications, such as, but not limited to, radio, telephone, or television signals, including any public agency radio or microwave systems, caused by the facility.

**10.16.5.6. Liability insurance.** There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least $1 million per occurrence. Certificates shall be made available to the County upon request.

**10.16.5.7. Development agreement**. A development agreement can be entered into between the property owner, the County and the facility owner, carrying out all conditions of the development order approving or conditionally approving the large wind energy facility, and all other requirements of this section and the requirements of other applicable County, state or federal ordinances, regulations or laws.

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**10.16.5.8. Decommissioning.**

**1**. The owner/operator shall, at its expense, complete decommissioning of the facility, or of any individual turbine, within twelve (12) months after the end of the useful life of the facility or of any individual turbine. The facility or individual turbines will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

**2**. Decommissioning shall include removal of turbines, buildings, structures, cabling, electrical components, roads, and foundations to a depth of thirty-six (36) inches, as well as any other associated facilities/equipment. Disturbed earth shall be graded and re-seeded with native flora.

**3**. An independent and New Mexico state certified professional engineer shall be retained to estimate the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the County after the first year of operation and every fifth year thereafter.

**4**. The large wind energy facility owner/operator shall post and maintain funds ("Decommissioning Funds") in an amount equal to Net Decommissioning Costs; provided that at no point shall the Decommissioning Funds be less than twenty five percent (25%) of Decommissioning Costs.

**5**. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or State chartered lending institution chosen by the facility owner/operator posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the County.

**6**. Decommissioning Funds may be in the form of a performance bond, surety bond, letter of credit, corporate guaranty or other form of financial assurance as may be acceptable to the County.

**a.** If the facility owner/operator fails to complete decommissioning within six (6) months after the end of the twelve-month period, then the County may take such measures as necessary to complete decommissioning, at the expense of the facility owner/operator.

**b.** The escrow agent shall release the Decommissioning Funds when the facility owner/operator has demonstrated and the County concurs that decommissioning has been satisfactorily completed, or upon written approval of the County in order to implement the decommissioning plan.

## 10.17. WIRELESS COMMUNICATION FACILITIES.

**10.17.1. Applicability; Exceptions.** Section 10.17 shall apply to the installation, construction, modification or operation of any wireless communication facility located within the unincorporated areas of the County, with the following exceptions:

**10.17.1.1.** Satellite earth stations, satellite dishes and TV antennas; and

**10.17.1.2.** Routine maintenance of any existing wireless communication facility that

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does not include the placement of a new wireless communication facility, modification of an existing wireless communication facility, or installation of a collocation.

**10.17.2. Purpose; Intent.** The purpose and intent of this section is to ensure that the placement, construction, and modification of wireless communications facilities are conducted with due regard for: the County's health, safety, public welfare; environmental features of the County; the nature and character of the communities and neighborhoods and other aspects of the quality of life specifically listed elsewhere in this section 10.17; compliance with generally applicable building, structural, electrical and safety codes; and compliance with laws and county ordinances codifying objective standards reasonably related to health and safety. Accordingly, the County hereby adopts this section to achieve the following goals of:

**10.17.2.1.** Requiring a wireless communication permit or CUP permit for the placement, construction of any new wireless communication facility, or for the collocation or modification of an existing wireless communication facility;

**10.17.2.2.** Implementing an application process for a person(s) or entity(ies) seeking a wireless communication permit or CUP permit;

**10.17.2.3.** Minimizing the impact of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity, and compatibility;

**10.17.2.4.** Encouraging whenever possible the location and collocation of wireless communication equipment on existing structures, thereby minimizing adverse visual, aesthetic, and public safety impacts and effects upon the natural environment and wildlife, and reducing the need for additional antenna supporting structures;

**10.17.2.5.** Accommodating the growing need and demand for wireless communication services;

**10.17.2.6.** Encouraging coordination between providers of wireless communication services;

**10.17.2.7.** Protecting the character, scale, stability, and aesthetic quality of the County's residential districts by imposing reasonable restrictions on the placement of certain amateur radio facilities;

**10.17.2.8.** Establishing review procedures to ensure that applications for wireless communication facilities are reviewed and acted upon within a reasonable period of time;

**10.17.2.9.** Providing for the removal of discontinued antenna supporting structures;

**10.17.2.10.** Providing for the replacement or removal of nonconforming antenna supporting structures;

**10.17.2.11.** Complying with the policies embodied in the federal Telecommunications Act of 1996 (47 U.S.C. 332(c)) in such a manner as to:

**1.** Not unreasonably discriminate among providers of functionally equivalent services, and not prohibiting or have the effect of prohibiting the provision of personal wireless services;

**2.** Provide for the County to act on any request for authorization to place,

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construct, or modify a personal wireless service facility within a reasonable period of time after the request is duly filed, and payment is made of the applicable application fee;

**3.** Provide that any development order issued on an application for development approval which denies or conditionally approves a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record; and

**4.** Provide that no County development order shall regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions beyond such facilities complying with the Federal Communication Commission's regulations concerning such emissions.

**10.17.2.12.** Complying with the policies embodied in section 6409(a) of the federal Spectrum Act (47 U.S.C. 1455), adopted by Congress in Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. No. 112-96, Feb. 22, 2012), relative to the processing of any application for an eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of the tower or base station. Acknowledging that according to the FCC, the clear intent of Congress in adopting this Act was to advance wireless broadband deployment, which it is believed will promote billions of dollars in private investment and create tens of thousands of jobs.

**10.17.2.13.** Determining when an eligible facilities request is specifically made under the Spectrum Act and herein, which imposes mandatory approval and establishes a 60-day timeline for processing a request to modify an existing wireless tower or base station where the modification does not substantially change the physical dimensions of an existing tower or base station.

**10.17.2.14**. Determining when a requested modification of an existing wireless tower or base station does or does not constitute a substantial change under the Spectrum Act.

**10.17.3. Structural and Other Standards Applicable to Antenna Supporting Structures.**

**10.17.3.1. Height.** The height limitations of wireless communication facilities shall be governed by Table 10-3. Except for stealth facilities, amateur radio antennas as covered in subsection 10.17.14 below, or height restrictions as otherwise provided in this subsection below, the overall height of any antenna supporting structure shall not exceed 150 feet:

**1.** AM and FM broadcast antenna supporting structures may not exceed 200 feet in overall height;

**2.** Television broadcast antenna supporting structures may not exceed 250 feet; and

**3.** Antenna supporting structures proposed of a height of more than 200 feet or within proximity of an airport as set forth in 47 CFR § 17.7 (Antenna Structures Requiring Notification to the FAA) and Title 14 CFR Part 77 (Safe, Efficient Use, and Preservation of the Navigable Airspace) both as most recently amended,

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shall comply with the provisions of those regulations and provide the Administrator with a copy of either the Determination of Hazard to Navigation or the No Determination of Hazard to Navigation, whichever has been issued pursuant to 14 CFR § 77.9.

**Table 10-3 Wireless Communications Facility Height Limitations by Zoning District**

| Zoning District | New tower and substantial modification (ft) | No substantial modification (ft) | Roof Mounted | Surface Mounted | Stealth |
|---|---|---|---|---|---|
| **A/R** | 150 | 75 | See 10.17.6.1. | See 10.17.7.1. | See 10.17.8.1 |
| **RUR** | 120 | 75 | " | " | " |

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| | | | | | |
|---|---|---|---|---|---|
| **RUR-F** | 90 | 50 | " | " | " |
| **RUR-R** | 75 | 50 | " | " | " |
| **RES-F** | 60 | 40 | " | " | " |
| **RES-E** | 40 | 36 | " | " | " |
| **RES-C** | 40 | 30 | " | " | " |
| **TC** | 40 | 24 | " | " | " |
| **CG** | 75 | 50 | " | " | " |
| **CN** | 60 | 40 | " | " | " |
| **I** | 90 | 50 | " | " | " |
| **P/I** | 60 | 40 | " | " | " |
| **MU** | 60 | 40 | " | " | " |

**10.17.3.2. Setbacks.**

**1.** Antenna supporting structures, equipment enclosures, and ancillary appurtenances shall meet the minimum setback requirements for the zoning district in which they are proposed.

**2.** To provide for public safety in the event of an antenna catching fire or becoming structurally unstable and falling to the ground, all new antenna supporting structures shall be set back from the property line a distance equal to at least its potential fall radius, as certified in writing by a New Mexico professional engineer duly licensed by the State of New Mexico Board of Licensure for Professional Engineers and Professional Surveyors. When computing the potential fall radius of a new antenna supporting structure, the following additional conditions shall apply:

**a.** an applicant shall take future modifications to its structure into consideration that could add height and thus increase the fall radius;

**b.** except for an antenna supporting structure sited in a residential zone, the potential fall radius shall, at a minimum, be at least the height of a tower and, in the event of its fall, cannot fall outside of the boundaries of the property on which it is sited;

**c.** no new antenna supporting structure shall be placed adjacent an existing tower such that if it fell to the ground, it would not fall against any existing antenna supporting structure; and

**d.** no new antenna supporting structure shall be placed adjacent an existing electrical power line, including its supporting tower(s), such that if it fell to the ground, it would not fall against the power line or its

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supporting tower(s).

**3.** In addition to any minimum setback requirements described in paragraph 1 above, antenna supporting structures with a tower height of at least 20 feet sited adjacent to residential property shall be set back a minimum of 100 feet, or a distance equal to twice the tower height, whichever is greater, measured from the property line of any property on which a residence is located. An antenna supporting structure shall be sited such that if it falls, it will not fall outside of the boundaries of the property on which it is sited nor will it fall onto any residence or accessory structure of an abutting property. It shall be certified in writing by a New Mexico professional engineer duly licensed by the State of New Mexico Board of Licensure for Professional Engineers and Professional Surveyors that an antenna supporting structure satisfies these setback and fall restrictions

**10.17.3.3. Construction.** Antenna supporting structures shall be of a monopole-type construction only, guyed or un-guyed, except as follows:

**1.** Broadcast structures with an overall height of greater than 200 feet may have a lattice-type construction;

**2.** Amateur radio antennas may have a monopole-, lattice-, or guyed-type construction; and

**3.** AM broadcast antenna supporting structures may have a monopole- or guyed-lattice-type construction.

**10.17.3.4. Lighting.**

**1.** Except for motion sensing security lighting to deter intruders, no lights, signals, or other illumination shall be permitted on any antenna supporting structure or ancillary appurtenances unless that lighting is required by the FAA or the FCC. The installation and use of any security lighting shall comply with Section 7.8.5.3 of this Code.

**2.** Site lighting may be placed in association with an approved equipment enclosure but shall be shielded to prevent light trespass. Site lighting shall remain unlit except when authorized personnel are present.

**10.17.3.5. Intensity Requirements.** The floor area for a wireless communication facility shall be calculated based on the total square footage of all equipment enclosures associated with the facility.

**10.17.3.6. Color.** Antenna supporting structures and ancillary appurtenances, including transmission lines, shall maintain a tan adobe finish or other contextual or compatible color as determined by the Administrator, except as otherwise required by the FAA or the FCC.

**10.17.3.7. Fencing.** A fence of at least six (6) feet but no more than eight (8) feet in height from finished grade shall be installed in order to completely enclose the base of the antenna supporting structure and associated equipment. Access to the antenna supporting structure shall be controlled by a locked gate. The fence shall be constructed in accordance with Chapter 7 of this Code. Any access gate(s) shall be secure and kept locked except for access by Applicant's personnel including any maintenance

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individuals.

**10.17.3.8. Signage.**

**1.** No signs may be placed on antenna supporting structures, ancillary appurtenances, equipment enclosures, or on any fence or wall except as required by this subsection.

**2.** If high voltage is necessary for the operation of a proposed wireless antenna structure, bold-lettered "High Voltage—Danger" and "No Trespass" warning signs not greater than one square foot in area shall be permanently attached to the fence or wall at a height of at least five (5) feet and spaced at intervals of at least 40 feet and also upon the access gate. Such signs shall be maintained so they are clearly visible and not obstructed by landscaping.

**3.** A sign not greater than one square foot in area shall be attached to the access gate that indicates the following information: FCC Registration Number, if applicable, name of owner or contact person; and emergency contact number which shall be kept current.

**10.17.3.9. Safety; ANSI/TIA-222-G Compliance.** All antenna supporting structures shall comply with the safety standards contained in the American National Standards Institute/Telecommunications Industries Association (ANSI/TIA) document 222-G, "Structural Standard for Steel Antenna Towers and Supporting Structures," as amended, revised or supplemented by addenda. ANSI/TIA-222-G addresses such factors that include, but are not limited to, default design parameters, wind speed resistance based on a three-second-gust wind speed, ice formation, climber safety, structure load details, mounting frames, classification of structures, earthquake design, topographic categories, ground surface exposure categories and soil parameters.

**10.17.3.10. Accommodation of Future Collocations.**

**1.** Antenna supporting structures shall be designed to accommodate future collocations. The estimated amount of additional equipment to be accommodated by applicant shall be disclosed during the pre-application conference.

**2.** As a condition of approval under this chapter, the applicant shall submit a shared use plan that commits the owner of the proposed antenna supporting structure to accommodate future collocations where reasonable and feasible in light of the criteria set forth in this section.

**3.** Except for amateur radio or stealth facility structures, all new or modified antenna supporting structures up to eighty (80) feet shall be engineered and constructed to accommodate no less than two (2) antenna arrays; all antenna supporting structures between eighty-one (81) feet and one hundred (100) feet, shall be engineered and constructed to accommodate no less than three (3) antenna arrays; all antenna supporting structures between one hundred one (101) feet and one hundred fifty (150) feet, shall be engineered and constructed to accommodate no less than four (4) antenna arrays.

**10.17.3.11. Proliferation Minimized.**

**1. Generally.** New antenna supporting structures will not be permitted unless

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the applicant indicates that the proposed antenna(s) cannot be accommodated on an existing building or structure or by construction of a stealth facility.

**2. Letters of coordination.** At the pre-application conference, the applicant of a new antenna supporting structure shall provide documentation that the following notice was mailed, via certified mail, return receipt requested, or delivered by courier service to all providers or, where applicable, to owners of existing antenna supporting structures, and that the applicant was unable to secure a lease agreement with a provider to allow the placement of the proposed antenna(s) on an existing structure or building within the geographic search area, as follows:

> "Pursuant to the requirements of the Santa Fe County Sustainable Land Development Code, [NAME OF APPLICANT] is providing you with this notice of intent to meet with the Administrator in a pre-application conference to discuss the location of a free-standing wireless communication facility to be located at [LOCATION].
>
> [APPLICANT] plans to construct an antenna supporting structure of [NUMBER OF] feet in height for the purpose of providing [TYPE OF WIRELESS SERVICE].
>
> Please inform the County Administrator and [APPLICANT] if you intend to own/operate any other wireless communication facility/ies within two miles of the proposed facility, or if you have knowledge of an existing building or antenna supporting structure that might accommodate the antenna(s) associated with our proposed facility.
>
> Please provide us with this information within 10 days following the receipt of this letter.
>
> Sincerely,
> [APPLICANT, WIRELESS PROVIDER]

The Administrator shall maintain a list of known wireless service providers and owners, including their contact information. Letters of coordination shall be mailed not less than 10 business days prior to the pre-application conference required by this section and shall request a response from the recipient within 10 days of receipt.

**3. Siting priorities.** In order to justify the construction of an antenna supporting structure, the applicant shall demonstrate that higher-ranking alternatives in the following order do not constitute feasible alternatives: (a) collocated or combined antennas; (b) surface-mounted antennas; (c) roof-mounted antenna supporting facility; and (d) stealth wireless communication facility. Such demonstration shall be made by submission of a statement of position, qualifications, and experience by a licensed radio frequency engineer.

**4. Additional evidence.** As appropriate, the following evidence may also be submitted to demonstrate compliance with this section: (a) that no existing wireless communication facility within the geographic search area meets the applicant's radio frequency engineering or height requirements; (b) that no building or structure within the geographic search area has sufficient structural

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strength to support the applicant's proposed antennas; or (c) that there are other limiting factors that render collocated, surface-mounted, roof-mounted, or stealth facilities unsuitable or unreasonable.

**10.17.3.12. Visual Impacts Minimized.**

**1. Generally.** Antennas shall be configured on antenna supporting structures in a manner that is consistent with the character of the surrounding community and that minimizes adverse visual impacts on adjacent properties.

**2. Antenna-type priorities.** In order to justify the use of an antenna type lower in the hierarchy, the applicant shall adequately demonstrate that higher-ranked alternatives in the following order cannot be used: flush-mounted, panel, whip or dish. Such demonstration shall be made by submission of a statement of position, qualifications, and experience by a licensed radio frequency engineer familiar with said alternatives.

**10.17.3.13. District Impacts Minimized.** In order to justify locating a proposed antenna supporting structure within a zoning district lower in the hierarchy, the applicant shall adequately demonstrate that siting alternatives within higher-ranked districts in the following order are not reasonable or feasible: developments of countywide impact; industrial; commercial; agricultural/ranching; planned districts; residential and rural residential; flood hazard areas, habitat areas and corridors, mountains and hillsides, rivers and streams, wetlands, scenic byways and trails; or airport overlay. Such demonstration shall be made by submission of a statement of position, qualifications, and experience by a licensed radio frequency engineer.

**10.17.3.14. Unpermitted Wireless Transmission Equipment**. Any tower or base station that exists upon the effective date of this Code that was constructed or deployed without proper review by the County, was not required to undergo siting review, or supports transmission equipment that did not receive any State or County regulatory approval shall not be subject to the granting of a collocation application. The restrictions in this subsection do not apply to femtocells, satellite dish antennas or personal TV antennas, when each is installed for personal use. It shall also not apply to a stealth facility.

**10.17.3.15. Restricted and sensitive sites.** In addition to any potential sites for constructing antenna supporting structures that are restricted or subject to compliance requirements under the National Environmental Policy Act of 1969 (NEPA), the National Historic Preservation Act of 1966 (NHPA) or related rules of the FCC, no antenna supporting structure shall be constructed on any property, dwelling or structure in the County listed as an archeological, historic, scientific, architectural or cultural property or resource on the "New Mexico Register of Cultural Properties" pursuant to rules of the Cultural Properties Review Committee and Historic Preservation Division of the New Mexico Department of Cultural Affairs. Nor shall an antenna supporting structure be constructed on any land that is the subject of a conservation easement or that has been designated as open space.

**10.17.3.16. Licensure of Installation Contractor.** Any New Mexico business entity contracted to construct a broadcast tower or wireless communication tower under this section shall be a licensed GF-7 contractor pursuant to state rule 14.6.6 NMAC ("Classifications and Scopes") as most recently amended, which rule was adopted by the Construction Industries Division of the Regulation and Licensing Department.

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**10.17.4. Standards for Modifications.**

**10.17.4.1.** The short processing time and mandatory approval for a modification under the Spectrum Act applies to an eligible facilities request for modification of an existing wireless tower or base station that substantially changes the physical dimensions of an eligible support structure, and involves:

**1.** Collocation of new transmission equipment;

**2.** Removal of transmission equipment; or

**3.** Replacement of transmission of equipment.

**10.17.4.2. Substantial Modifications.** In determining whether a modification substantially changes the physical dimensions of an eligible support structure, changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally such as on a building's rooftop. In other circumstances, changes in height shall be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (February 22, 2012). A substantial change occurs, if it meets any of the following criteria:

**1.** For towers other than towers in the public rights-of way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater;

**2.** For towers other than towers in the public rights of way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

**3.** For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

**4.** It entails any excavation or deployment outside the current site;

**5.** It would defeat the concealment elements of the eligible support structure; or

**6.** It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs 1 through 4 above.

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**10.17.4.3. Non-substantial Modifications.** A modification that does not substantially change the physical dimensions of an eligible support structure would consist of proposed dimensions or increases that are less than any of the dimensions or increases described in paragraphs 1 through 4 of subsection 10.17.4.2 above. Additionally, a modification that does not substantially change the physical dimensions of an eligible support structure is one that does not entail any excavation or deployment outside the current site of an existing facility, or its modification would defeat the concealment elements of a stealth facility.

**10.17.4.4. Color.** All collocated antennas and ancillary appurtenances shall maintain a sandstone finish or other contextual color that is compatible with the environment or the building to which they are attached.

**10.17.4.5. Visual impact minimized.** The visual impact requirements and hierarchy set forth at subsection 10.17.3.12 shall apply to the approval of collocations.

**10.17.5. Standards for Water Tower-Mounted Antenna Supporting Structure.** Even though a water tower may be considered an accessory structure or its use an accessory use, antennas may be placed on water towers in zoning districts where antennas for wireless communication facilities are designated as conditional uses in the use matrix. No portion of any water tower-mounted antenna or its base station shall extend above the height of the water tower walls unless specifically permitted as part of a conditional use for good reason demonstrated.

**10.17.6. Standards for Roof-Mounted Antenna Supporting Structure.**

**10.17.6.1. Height.**

**1.** For purposes of public safety in order to prevent or reduce the potential for damage and bodily injury from such an antenna supporting structure or modification thereto, any roof-mounted antenna supporting structure, attachment device, equipment enclosure, and/or any ancillary appurtenance may not extend above the roof line of the building upon which it is attached by more than twenty (20) feet.

**2.** Roof-mounted wireless structures with an overall height of greater than 50 feet are considered antenna supporting structures subject to the applicable standards of this chapter.

**3.** Roof-mounted antenna supporting structures proposed within proximity of an airport as set forth in 47 CFR § 17.7 (Antenna Structures Requiring Notification to the FAA) and Title 14 CFR Part 77 (Safe, Efficient Use, and Preservation of the Navigable Airspace) both as most recently amended, shall comply with the provisions of those regulations and provide the Administrator with a copy of either the Determination of Hazard to Navigation or the No Determination of Hazard to Navigation notice, whichever is issued pursuant to 14 CFR § 77.9.

**4.** An antenna located on a building roof shall, in addition to the requirements of paragraphs 1 to 3 above, be governed by the regulations for the maximum height of structures of the applicable district.

**10.17.6.2 Location and placement.** Roof-mounted antennas may be placed only on commercial non-residential, institutional, industrial, and multifamily buildings that are at least 35 feet in height.

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**10.17.6.3. Screening and placement.**

**1.** If practicable by reason of the roof design, roof-mounted wireless communication facilities should be mounted as near to the center of the roof as possible. Whenever practicable, roof-mounted structures should be screened by a parapet or other device such as a camouflage application in order to minimize their visual impact as viewed from the lot line of the subject property.

**2.** Transmission lines placed on the exterior of a building shall be camouflaged or otherwise shielded within an appropriate material that is the same color as, or a color consistent with, the building to which they are attached.

**10.17.6.4. Construction.** Roof-mounted antennas shall be of a monopole-type construction.

**10.17.6.5. Color.** Roof-mounted structures, ancillary appurtenances, and equipment enclosures shall maintain a color to match as closely as possible the color and texture of the wall of the building on which they are mounted.

**10.17.6.6. Signage.** No signs may be placed on any roof mounted structure, ancillary appurtenances, or equipment enclosures.

**10.17.6.7. Visual impact minimized.** The visual impact requirements and hierarchy set forth at subsection 10.17.3.12 shall apply to the approval of roof-mounted structures.

**10.17.7. Standards for Surface-Mounted Antennas.**

**10.17.7.1. Height and placement.** Surface-mounted antennas shall be placed not less than 15 feet from the ground and, where proposed for placement on a building, shall be placed so that the antenna shall be at least three feet below the roof line.

**10.17.7.2. Color.** Surface-mounted antennas and associate ancillary appurtenances shall maintain a color that is the same as the surface to which they are attached, unless another color is more compatible within the context of the proposed facility and the surrounding environment. Transmission lines shall be camouflaged or otherwise shielded within an appropriate material that is the same color as, or a color consistent with, the building or structure to which they are attached.

**10.17.7.3. Visual impact minimized.** The visual impact requirements and hierarchy set forth at subsection 10.17.3.12 shall apply to the approval of surface-mounted structures.

**10.17.8. Standards for Stealth Facilities.**

**10.17.8.1. Height.** The overall height of a proposed stealth facility shall be limited to that which is allowed within the zoning district in which the facility is to be located, and which is consistent with the surrounding community. However, in no case may the overall height of any stealth facility exceed 50 feet. Stealth wireless communication facilities proposed within a O-AN district and within proximity of an airport, as set forth in 47 CFR § 17.7 (Antenna Structures Requiring Notification to the FAA) and Title 14 CFR Part 77 (Safe, Efficient Use, and Preservation of the Navigable Airspace) both as most recently amended, shall comply with the provisions of those regulations and provide the Administrator with a copy of either the Determination of Hazard to Navigation or the No Determination of Hazard to Navigation notice, whichever is issued pursuant to 14

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CFR § 77.9.

**10.17.8.2. Setbacks.**

**1.** Stealth wireless communication facilities, ancillary appurtenances, and equipment enclosures shall meet the minimum setback requirements for the zoning district in which they are proposed. However, the minimum separation from any existing residential structure shall be 150% of the tower's height.

**2.** Setback requirements for stealth facilities may be reduced if it is determined that such a reduction is necessary to reduce the visual impact or enhance the compatibility of the proposed facility.

**10.17.8.3. Aesthetics.** No stealth facility may have antennas or ancillary equipment that is readily identifiable from the public domain as wireless communication equipment. Stealth facilities shall be designed to be reasonably consistent with the surrounding built or natural environment. In order to determine compliance with this requirement, the following criteria shall be considered:

**1.** Overall height;

**2.** The compatibility of the proposed facility with surrounding built and natural features;

**3.** Scale;

**4.** Color;

**5.** The extent to which the proposed facility has been designed to reasonably replicate a non-wireless facility (e.g., a silo, flagpole, or tree); and

**6.** The extent to which the proposed facility is not readily identifiable as a wireless communication facility.

**10.17.9. Permitting of Temporary Towers.** Temporary towers shall require permitting but under an expedited review process that shall be completed, after payment of a permitting fee, which shall be within five (5) working days.

**10.17.9.1.** The need for temporary towers arises when there is insufficient time to complete an environmental notification process before a temporary tower must be deployed to meet short term wireless communication demands. Such need for deployment includes:

**1.** newsworthy events that occur without any prior notice and require immediate deployments, such as natural disasters and other natural or local emergency or urgent events;

**2.** other events that occur with less than thirty (30) days advance notice, such as political events and parades for sport teams;

**3.** events for temporary towers are unknown until days before the event, such as fairs and major sporting events; and

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**4.** situations in which unexpected difficulties with permanent structures require the deployment of temporary towers to restore lost communications while permanent facilities are repaired or replaced.

**10.17.9.2.** Temporary towers are authorized subject to the following restrictions:

**1.** they shall be in place for no more than sixty (60) days subject to one 60-day extension due to changed circumstance or information that emerged after the exempted temporary tower was deployed;

**2.** they shall comply with any notice of construction requirements of the FAA;

**3.** they do not require any marking or lighting under FAA or state regulations;

**4.** they shall be greater than thirty (30) but less than two hundred (200) feet in height; and

**5**. they either will involve no excavation or excavation only where the depth of previous disturbance exceeds the proposed construction depth excluding footings and other anchoring mechanisms by at least two (2) feet.

**10.17.9.3.** Thirty (30) days shall elapse following the removal of one temporary tower before the same applicant may rely on the authority for another temporary tower covering substantially the same service area.

**10.17.10. Application and Development Review Process.**

**10.17.10.1. Generally.** Unless excepted by section 10.17.1, all wireless telecommunication facilities are subject to zoning approval in accordance with Chapter 8 of the SLDC and this section. The use matrix sets forth the process required based on the applicable location and facility type.

**10.17.10.2. General Application Requirements.**

**1.** In addition to the application form for a wireless communication development permit and conditional use permit (if applicable), the applicable submittal requirements as indicated in Table 10-4, the SRAs required by Chapter 6, and the sustainable design standards of Chapter 7, shall be furnished with the application and satisfied prior to review of an application for any new wireless communication facility. This requirement is not applicable to replacement of an existing wireless communication facility or to non-substantial modifications of existing antenna supporting structures including the installation of collocations. (For provisions governing replacement, see §§ 10.17.4.1, 10.17.10.6 and 10.17.14.)

**2.** All applications must be signed by the property owner, the applicant, and the provider who will be placing antennas on the proposed facility. If the property owner is not the provider, the application shall include a copy of an executed lease agreement between the applicant or property owner and a provider, or, where no lease agreement has been executed, an affidavit signed by a carrier attesting to an intent to place antennas on the wireless communication facility if the application is approved.

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**3.** If the application is for a new antenna supporting structure, the applicant shall also comply with the pre-application meeting requirements of the SLDC. This provision is not applicable to replacement antenna supporting structures unless they exceed the height of the existing structure. Prior to the pre-application meeting, the applicant shall provide the following information regarding the proposed facility:

**a.** A detailed site plan that shows:

**(i)** location and dimensions of the proposed facility;

**(ii)** maximum height above ground of the proposed facility;

**(iii)** The elevation of the proposed facility including the benchmarks and data used to compute;

**(iv)** Any and all existing setbacks on the proposed site; and

**(v)** The location of all existing access ways to the proposed location and design of any proposed access ways.

**b.** Number of antennas proposed, including those of other providers;

**c.** Type or types of wireless communication to be provided;

**d.** The full name and address of the owner of the parcel;

**e.** Applicant's certification that they have the legal authority to collocate/modify support structure which may include obtaining approvals from the Administrator authoring the initial placement of transmission equipment on the tower or other structure; and

**f.** Proof that the letters of coordination were mailed as required by subsection 10.17.3.11 regarding accommodation of future collocations.

**Table 10-4: Submittal Requirements for Wireless Telecommunication Facilities.**

| Antenna Supporting | Collocations | Roof-Mounted | Surface-Mounted | Stealth Facilities | Required Submissions: |
|---|---|---|---|---|---|
| ● | ● | ● | ● | ● | A complete application on a form provided by the Administrator. |
| ● | ● | ● | ● | ● | A signed assurance from the facility's owner, owner's agent or operator stating that the radio frequency emissions for the proposed facility or device shall not exceed the FCC's maximum permissible exposure limits for the general population set forth in 47 CFR § 1.1310. |
| ● | ● | ● | ● | ● | The maximum tower height and maximum power output in megahertz and watts of any proposed wireless communication facility including any proposed modifications or collocations of an existing facility. |

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| Antenna Supporting | Collocations | Roof-Mounted | Surface-Mounted | Stealth Facilities | Required Submissions: |
|---|---|---|---|---|---|
| ● | ● | ● | ● | ● | Proof that the proposed facility meets or exceeds the standards for wind resistance, mount loads and mounting frames covered by ANSI/TIA 222-G as amended, revised or supplemented by addenda. |
| ● | | ● | | ● | Proof that the proposed antenna supporting structure has been designed so that, in the event of structural failure, the facility will collapse within the boundaries of the lot on which it is located. |
| ● | | | | ● | A license (and for broadcast structures, a construction development approval) issued by the FCC to transmit radio signals in the County. |
| ● | ● | ● | ● | ● | The contact information for the owner of any proposed or existing antenna supporting structure, and a statement that such information will be updated annually or upon a change of ownership. |
| ● | ● | ● | ● | ● | A statement of the height above sea level of the highest point of the proposed facility, including any modifications or collocations. |
| ● | ● | ● | | ● | A stamped or sealed structural analysis of the facility prepared by a professional engineer, certified by the State of New Mexico indicating the proposed and future loading capacity of the facility and its compliance with ANSI/TIA 222-G as amended, revised or supplemented by addenda. |
| ● | | | | ● | One original and two copies of a survey of the lot completed by a registered land surveyor indicating all existing uses, structures, and improvements. |
| ● | | | | ● | Photo-simulated post-construction renderings of the proposed facility, equipment enclosures, and ancillary appurtenances as they would look after construction from locations to be determined by the participants during the pre-application conference. |
| ● | | ● | ● | ● | Proof of FAA compliance with Subpart C of the Federal Aviation Regulations Part 77 by providing a copy of either a "Determination" or "No Determination" "of Hazard to Navigation" notice pursuant to 14 CFR § 77.9. |
| ● | ● | ● | ● | ● | A letter of consent from the airport authority if within any noise or safety zone. |
| ● | | ● | ● | ● | Shared use plan. |
| ● | | | | ● | If required by the US Fish and Wildlife Service, a letter indicating that the proposed antenna supporting structure and appurtenances are in compliance with all applicable federal rules and regulations. |
| ● | ● | ● | ● | ● | A graphical representation with statement of the coverage area planned for the cell to be served by the proposed facility. |
| ● | ● | ● | ● | ● | Antenna heights and power levels of the proposed facility and all other facilities on the subject property. |
| ● | | | ● | | A geotechnical report addressing the soil type and soil properties at the proposed site to avoid having a tower anchor corrode and fail to support the tower. [ANSI/TIA 222-G, annex of values representative of soil |

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| Antenna Supporting | Collocations | Roof-Mounted | Surface-Mounted | Stealth Facilities | Required Submissions: |
|---|---|---|---|---|---|
| | | | | | types] |

**10.17.10.3. Application Review Standards.** Application review standards are indicated by facility type below in subsections 10.17.10.5 through 10.17.10.7 and are in addition to the applicable standards of Chapters 7 and 8 herein.

**10.17.10.4. Expert Review of Application.**

**1.** Due to the complexity of the methodology or analysis required to review an application for a wireless communication facility including modification/collocation to an existing facility, the Administrator or the Planning Commission may require a technical review by a third-party expert, the cost in an amount specified in the fee ordinance, which shall be borne by the applicant. The expert review may address the following:

**a.** The accuracy and completeness of submissions;

**b.** The applicability of analysis techniques and methodologies;

**c.** The validity of conclusions reached;

**d.** Whether the proposed wireless communication facility complies with the applicable approval criteria set forth in this chapter, other sections of the SLDC, federal and state laws and regulations; and

**e.** Any other matters deemed by the Administrator to be relevant in determining whether a proposed wireless communication facility complies with the provisions of this Chapter, the SGMP, other sections of the SLDC, federal and state laws and regulations.

**2.** Based on the findings and conclusions of the expert review, the Administrator may require changes to the applicant's application or required submissions. However, any such required changes or submissions shall be treated as an incomplete submission and governed by subsections 10.17.10.5 through 10.17.10.7 respectively, depending on the type and size of the facility.

**3.** The applicant shall reimburse the County for the engineering review required in subsection 10.17.10.4 by depositing funds or a letter of credit with the Administrator in an amount specified in the fee ordinance. Any refund or requirement for additional amounts will be determined within 10 working days of the date of receipt of an invoice for expenses associated with the third-party expert's review of the application. Failure by the applicant to make reimbursement pursuant to this section will suspend the pending application until payment in full is received.

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**10.17.10.5. Application for a new wireless communication facility.** Notwithstanding any other review/approval timeframes for development permits or CUP permits under this SLDC, an application for the siting of a new wireless communication facility shall be reviewed and a final decision issued by the Administrator or Planning Commission within 150 days from the date of submittal of the application to the Administrator or Planning Commission.

**1.** If an application is determined to be incomplete, the Administrator or Planning Commission must notify the applicant in writing of the incompleteness within 30 days of receipt of the application, which notification shall toll the 150-day timeline for processing an application only until the applicant submits the additionally requested documents or information.

**2.** Any notice of incompleteness shall inform the applicant what specific documents or information are missing from the application, and what Code provision, ordinance or application procedure requires the documentation or information to be submitted.

**3.** Upon receipt of the applicant's supplemental submission, if the Administrator or Planning Commission still considers the application to be incomplete, a notice of incompleteness must be submitted to the applicant within 10 days of receipt detailing what specific documents or information are still missing.

**4.** If the Administrator or Planning Commission issues a second or subsequent notices of incompleteness in response to subsequent supplemental submissions, such notices may not seek missing documents or information that were not previously delineated in the original notice of incompleteness.

**5.** If the Administrator or Planning Commission does not render a decision on the application within 150 days, even factoring in any additional days due to tolling, such indecision shall constitute "failure to act" and authorize the applicant to commence an action in court under Section 332(c)(7)(B)(v) of the Telecommunications Act of 1996. The applicant need not appeal to the Board prior to taking the matter to court for failure to act.

**6.** If the Administrator renders a decision denying the application, the applicant may appeal pursuant to Section 4.5 of this Code.

**10.17.10.6. Application for modification of a wireless tower or base station that does not substantially change the physical dimensions of the tower or base station.** Notwithstanding any other review/approval timeframes for development permits or CUP permits under this SLDC, an application for modification of an existing wireless communication facility that does not substantially change the physical dimensions of an eligible support structure shall be reviewed and a final decision issued by the Administrator within 60 days from the date of submittal of the application to the Administrator. "Modification" of a wireless tower or base includes collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission of equipment.

**1. Processing covered and non-covered requests.**

**a.** An application for development permit for modification of a wireless communication facility that does not substantially change the physical

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dimensions of a tower or base station must specifically assert in its application that the requested modification constitutes a "covered request" under Section 6409(a) of the Spectrum Act.

**b.** If the Administrator determines that a request is not a covered request, then the application is not entitled to consideration for mandatory approval under the Spectrum Act. Instead, such modification application shall still be considered for approval but under the 150-day Telecommunications Act timeline, which timeframe commences upon issuance of the Administrator's decision that Section 6409(a) of the Spectrum Act does not apply.

**c.** An application for a collocation which is determined by the Administrator to be non-covered shall be considered for approval within 90 days from the date that determination is made.

**2. Addressing incomplete applications.**

**a.** If an application is determined to be incomplete, the Administrator must notify the applicant in writing of the incompleteness within 30 days of receipt of the application, which notification shall toll the 60-day timeline for processing an application only until the applicant submits the additionally requested documents or information.

**b.** Any notice of incompleteness shall inform the applicant what specific documents or information are missing from the application and what Code provision, ordinance or application procedure requires that documentation or information to be submitted.

**c.** Upon receipt of the applicant's supplemental submission, if the Administrator still considers the application to be incomplete, a notice of incompleteness must be submitted to the applicant within 10 days of receipt detailing what specific documents or information are still missing.

**d.** If the Administrator issues second or subsequent notices of incompleteness in response to subsequent supplemental submissions, such notices may not seek missing documents or information that were not previously delineated in the original notice of incompleteness.

**e.** All subsequent notices of incompleteness shall further toll the 60-day timeline for processing an application only until the applicant submits the additionally requested documents or information.

**f.** The 60-day timeline may be tolled at any time by mutual agreement in a document signed by the Administrator and the applicant.

**3.** If the Administrator does not render a decision on the application within 60 days, even factoring in any additional days due to tolling, such indecision shall constitute "failure to act" and the applicant's request shall be deemed granted. That an applicant's request is deemed granted shall not become effective until the applicant notifies the Administrator in writing after the review period has expired, including any tolling, that the application has been deemed granted.

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**4.** If the Administrator renders a decision denying the application, the applicant may, pursuant to Section 4.5 of the Code, appeal that decision within 5 days to the Planning Commission, and if still aggrieved, appeal that decision within 30 days to the Board.

**5. Availability of court review.** Either the Applicant or the Administrator may, within 30 days of the relevant event, bring claims related to the Spectrum Act to any court of competent jurisdiction. By way of example:

**a.** the Administrator could invoke litigation to challenge an applicant's written assertion of a deemed grant when the Administrator believes the underlying application did not meet the criteria in the Spectrum Act for mandatory approval, would not comply with applicable building codes, or would not comply with other non-discretionary structural and safety codes.

**b.** the applicant could invoke litigation to challenge the Administrator's denial of application approval, the Administrator's determination of incompleteness, or to obtain a declaratory judgment or other order confirming that its application is deemed granted.

**10.17.10.7. Application for modification of a wireless tower or base station that substantially changes the physical dimensions of the tower or base station.** Notwithstanding any other review/approval timeframes for development permits under this SLDC, an application for modification of an existing wireless communication facility that substantially changes the physical dimensions of an eligible support structure shall be reviewed and a final decision issued by the Planning Commission within 150 days from the date of submittal of the application to the Administrator; or within 90 days from the date of submittal of the application to the Administrator if the modification application is for collocation of new transmission equipment. The procedures in paragraphs 1 through 6 of subsection 10.17.10.5 above shall apply.

**10.17.11. Discontinuance and removal of facilities.**

**10.17.11.1. Action by Administrator upon discontinued use.** In the event that all legally approved use of an antenna supporting structure or antenna has been discontinued for a period of at least 180 consecutive days, the Administrator shall make a preliminary determination of discontinuance and revocation of the development permit or CUP permit. In making such a determination, the Administrator may request documentation and/or affidavits from the property owner and/or the owner of the wireless facility as to the continued use of the facility.

**10.17.11.2. Annual continued use report.** The property owner and owner/operator of the wireless facility shall file a consolidated annual report with the Administrator as to the continued use of the facility and provide updated contact information. Such report shall be due every 12 months on the anniversary of the granting of the wireless communication facility development permit or CUP permit. Failure on the part of a property owner or owner of the wireless facility to provide the annual report shall be presumptive evidence of discontinuance.

**10.17.11.3. Notice of discontinuance and revocation.** At such time as the Administrator reasonably determines that an antenna supporting structure or antenna has been discontinued, the Administrator shall provide the property owner and owner/operator of the wireless facility with a written notice of discontinuance and

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revocation of the CUP by certified mail or hand-delivered, at the last and usual place of business or residence, and set the matter for a public hearing with the Planning Commission for the first available date no sooner than 30 days after the notice of discontinuation and revocation of the CUP was mailed.

**10.17.11.4. Planning Commission hearing.** The Administrator shall establish at a public hearing by a preponderance of evidence that the subject facility has discontinued its operation by at least 180 consecutive days. Failure on the part of the property owner or owner/operator of the wireless facility to respond to the notice of discontinuance and revocation of the CUP, or to dispute discontinuance of its operation, will be evidence of discontinuance.

**10.17.11.5. Planning Commission final determination; written decision.** Based on the foregoing, or on any other relevant evidence submitted, or on testimony presented during the hearing including failure to respond, the Planning Commission shall make a final written determination on the issue of whether discontinuance of the operation by at least 180 consecutive days has occurred.

**1.** Such determination the Planning Commission shall be supported by written findings and conclusions and shall be based on a preponderance of the evidence.

**2.** If the Planning Commission determines that the use of the wireless communication facility has been discontinued, it shall issue a development order revoking the development order or CUP upon such reasonable terms as the Planning Commission in its quasi-judicial capacity shall determine.

**3.** The development order shall be served upon the property owner and the owner/operator of the wireless facility by certified mail return receipt requested, or by hand-delivery at the last and usual place of business or residence.

**4.** If the Planning Commission determines after hearing that the use of the wireless communication facility has not been discontinued, it shall issue and serve a written decision to that effect pursuant to the procedures described herein.

**5.** In the event of a finding of non-discontinuance, the wireless communication facility can continue to operate and shall file appropriate papers with the Administrator that provides contact information, the scope of its intended operation and such other information necessary to its operation and permitting by the County required by the Administrator.

**10.17.11.6. Removal of facility.** Unless the written decision of the Planning Commission is timely appealed pursuant to Section 4.5.4 of this Code, within 120 days of a determination of discontinuance, the property owner or facility owner/operator shall either:

**1.** Reactivate the use of the structure as a wireless communication facility under a timetable and conditions set by the Planning Commission;

**2.** Transfer ownership of the structure to a successor owner who will make appropriate use of the facility pursuant to the terms of the CUP or applicable development order; or

**3.** If neither paragraphs 1 or 2 of this subsection has occurred, the Administrator may, upon 10 days written notice to the property owner and the owner/operator

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of the wireless facility, enter upon the property and dismantle and remove the facility, with all costs subject to reimbursement jointly and severally by the property owner and the owner/operator.

**10.17.12. Nonconforming Antenna Supporting Structures.** Where any existing antenna supporting structure is made nonconforming by implementation of this section and its owners or operators seek to make a modification that substantially changes the physical dimensions of the tower or base station, any such modification shall require both the existing supporting structure and the modification to be in compliance with Section 10.17 of this Code. The owner or operator of the facility may apply for a variance and further demonstrate that the requirements of this section impose an unreasonable burden on the ability of a provider to provide personal wireless services pursuant to a license from the FCC or by reason of federal law.

**10.17.13. Variance Criteria.** No variance shall be granted under the provisions of this section unless the Planning Commission makes at least one of the following written findings of fact and conclusions:

**10.17.13.1.** That failure to grant the variance would prohibit or have the effect of prohibiting the provision of personal wireless services in violation of a license issued by the FCC or federal law;

**10.17.13.2.** That failure to grant the variance would unreasonably discriminate among providers of functional equivalent personal wireless services;

**10.17.13.3.** That the variance will obviate the need for additional antenna supporting structures;

**10.17.13.4.** That the variance is necessary to ensure adequate public safety and emergency management communications; or

**10.17.13.5.** That the variance is the minimum necessary in order for the applicant to provide broadcast services pursuant to an FCC-issued construction development approval.

**10.17.14. Amateur radio antennas and radio facilities.** Amateur radio antennas and radio facilities may be allowed as an accessory use to other permitted uses subject to a permit issued by the Administrator pursuant to the procedures in this Code. Operators of such facilities shall comply with the following standards:

**10.17.14.1.** Amateur radio antennas and radio facilities shall be owned and operated by a person holding either a valid Technician License, General License or Amateur Extra License issued by the FCC, or an unexpired grandfathered Novice, Technician Plus or Advanced license that was previously issued by the FCC, which licensee shall also hold a valid Station License, all as issued by the FCC pursuant to 47 CFR Part 97.

**10.17.14.2.** A minimum setback of a distance equal to the height of the radio antenna or tower shall be required and no antenna or its supporting structure shall be located in the front setback.

**10.17.14.3.** Guyed structure's anchors of any radio antenna shall be setback at least five feet from the property line.

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**10.17.14.4.** All lattice towers shall be within the licensed operator's property where it shall either be enclosed by a six foot perimeter fence of solid construction or protected by a climb guard device at least six feet in height.

**10.17.14.5.** Maintenance or replacement of existing facilities that does not increase the height and otherwise complies with the restrictions herein shall be allowed without a permit.

**10.17.14.6.** Fixed amateur radio antennas and radio facilities shall not exceed 45 feet in height from ground level.

**10.17.14.7.** Crank up amateur radio antennas may extend to a maximum height of 75 feet from ground level, provided the lowered height does not exceed 45 feet and the crank up tower is retracted when not in use.

**10.17.14.8.** Heights greater than those described above may be approved by application for a Conditional Use Permit, provided that the structure is reasonably necessary for the principal use, the proposed height is the minimum necessary for proper functioning, and the proposed accessory structure will not adversely affect neighboring properties.

**10.17.14.9.** No amateur radio station antenna or tower shall be sited such that, in the event of its fall, it could fall outside of the boundaries of the property on which it is sited.

**10.17.14.10.** Antenna support structures shall be located on property so as to provide adequate setbacks from above-ground utility power lines .

**10.17.14.11.** Before placing an amateur radio station on land of environmental importance or that is significant in American history, architecture or culture, the amateur radio station applicant may be required to take certain actions prescribed by 37 CFR §§ 1.1305 to 1.1319 of FCC regulations.

**10.17.15. Violation of Standards.** The property owner(s), as well as the tower owners or operators, shall be co-responsible for any violations of applicable standards in this Code which may be enforced pursuant to any of the remedies contained in Chapter 14 of this Code or otherwise provided by law.

~~**10.17.1. Purpose; Intent.** The purpose and intent of this section is to:~~

~~**10.17.1.1.** Promote the health, safety, and general welfare of the public by regulating the siting of wireless communication facilities;~~

~~**10.17.1.2.** Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity, and compatibility;~~

~~**10.17.1.3.** Encourage the location and collocation of wireless communication equipment on existing structures, thereby minimizing adverse visual, aesthetic, and public safety impacts and effects upon the natural environment and wildlife, and reducing the need for additional antenna supporting structures;~~

~~**10.17.1.4.** Accommodate the growing need and demand for wireless communication services;~~

~~**10.17.1.5.** Encourage coordination between providers of wireless communication~~

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~~services;~~

~~**10.17.1.6.** Protect the character, scale, stability, and aesthetic quality of the County's residential districts by imposing reasonable restrictions on the placement of certain amateur radio facilities;~~

~~**10.17.1.7.** Establish predictable and balanced regulations governing the construction and location of wireless communication facilities within the confines of permissible local regulation;~~

~~**10.17.1.8.** Establish review procedures to ensure that applications for wireless communication facilities are reviewed and acted upon within a reasonable period of time;~~

~~**10.17.1.9.** Provide for the removal of discontinued antenna supporting structures;~~

~~**10.17.1.10.** Provide for the replacement or removal of nonconforming antenna supporting structures; and~~

~~**10.17.1.11.** Comply with the policies embodied in the Federal Telecommunications Act of 1996 (47 U.S.C. § 332(c)) in such a manner as to:~~

~~**1.** Not unreasonably discriminate among providers of functionally equivalent services; and not prohibit or have the effect of prohibiting the provision of personal wireless services;~~

~~**2.** Provide for the County to act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed, taking into account the nature and scope of such request;~~

~~**3.** Provide that any development order issued on an application for development approval which denies or conditionally approves a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record; and~~

~~**4.** Provide that no County development order shall regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions.~~

~~**10.17.2. Applicability; Exceptions.** This §10.17 shall apply to the installation, construction, or modification of any wireless communication facility located within the County, with the following exceptions:~~

~~**10.17.2.1.** Any antenna supporting structure with an overall height of thirty (30) feet or less;~~

~~**10.17.2.2.** Any wireless communication facility that is not visible from the exterior of the building or structure on which it is mounted;~~

~~**10.17.2.3.** [Reserved]~~

~~**10.17.2.4.** Satellite earth stations;~~

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~~**10.17.2.5.** Routine maintenance of any existing wireless communication facility that does not include the placement of a new wireless communication facility;~~

~~**10.17.2.6.** A modification to an existing antenna supporting structure or base station involving: (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment, provided that such modification does not substantially change the physical dimensions of such structure or base station;~~

~~**10.17.2.7.** Any wireless facility erected pursuant to a declaration of a state of emergency by the federal, State or County governments, provided such facility is removed or approved pursuant within 90 days; and~~

~~**10.17.2.8.** Any wireless communication facility established pursuant to a permit issued by the FCC specifically providing that the facility is exempt from local regulation.~~

~~**10.17.3. Application and Development Review Process.**~~

~~**10.17.3.1. Generally.** Unless excepted by § 10.17.2.8, all wireless communication facilities are subject to zoning approval in accordance with Chapter 8 of the SLDC and this section. Table 10-3 sets forth the process required based on the applicable location and facility type.~~

~~**10.17.3.2. Expedited Approval for Certain Applications.** Expedited administrative approval is permitted for those facilities shown in Table 10-3, whereby the Administrator shall issue a zoning permit for the application within 30 days of it being deemed complete, subject to appeal to the Planning Commission. However, the Administrator may determine that expedited review is not feasible in certain circumstances, subjecting the application to standard review processes and timing. Such circumstances may include the complexity of technical issues involved, previous denials of similar wireless communication facilities in the vicinity of the one proposed, significant public entity or agency concerns with respect to the proposed facility, the presence of environmentally sensitive lands on or near the proposed facility, or the lack of adequate public facilities.~~

~~**Table 10-3: Use Index Applicable to Wireless Communication Facilities.**~~

| | ~~**District**~~ | | | | |
|---|---|---|---|---|---|
| ~~**Use**~~ | ~~Ag/Rural~~ | ~~Residential~~ | ~~Commercial~~ | ~~Industrial~~ | ~~Planned~~ |
| ~~Co-location or roof/surface mounted~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ |
| ~~New towers, 30-49 feet~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ |
| ~~New towers, 50-74 feet~~ | ~~C~~ | ~~C~~ | ~~P~~ | ~~P~~ | ~~C~~ |
| ~~New towers, 75-99 feet~~ | ~~C~~ | ~~C~~ | ~~C~~ | ~~C~~ | ~~C~~ |
| ~~New towers, 100+ feet~~ | ~~C~~ | ~~X~~ | ~~X~~ | ~~C~~ | ~~X~~ |

~~* In most cases applications will be approved administratively within 30 days of application being accepted for review. See subsection 10.17.3.2.~~

~~**10.17.3.3. Application Requirements.**~~

~~**1.** In addition to the application form for development permit and conditional use permit (if applicable), the submittal requirements as indicated in Table 10-4, the SRAs required by Chapter 6, and the sustainable design standards of Chapter 7,~~

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~~shall be furnished with the application and satisfied prior to review of an application for any wireless communication facility. The application must be signed by the property owner, the applicant, and the provider who will be placing antennas on the proposed facility. If the property owner is not a provider, the application shall include a copy of an executed lease agreement between the applicant or property owner and a provider, or, where no lease agreement has been executed, an affidavit signed by a carrier attesting to an intent to place antennas on the wireless communication facility if the application is approved.~~

~~**2.** If the application is for an antenna supporting structure, the applicant also shall comply with the pre-application meeting requirements of the SLDC. This provision is not applicable to replacement antenna supporting structures. Prior to the pre-application meeting, the applicant shall provide the following information regarding the proposed facility:~~

~~**a.** Location;~~

~~**b.** Overall height;~~

~~**c.** Number of antennas proposed, including those of other providers;~~

~~**d** Type or types of wireless communication to be provided; and~~

~~**e.** Proof that the letters of coordination were mailed as required by §10.17.4.10 regarding accommodation of future collocations.~~

~~**Table 10-4: Submittal Requirements for Wireless Communication Facilities.**~~

| ~~Antenna Supporting~~ | ~~Collocations~~ | ~~Roof-Mounted~~ | ~~Surface-Mounted~~ | ~~Stealth Facilities~~ | ~~Required Submissions:~~ |
|---|---|---|---|---|---|
| ~~•~~ | ~~•~~ | ~~•~~ | ~~•~~ | ~~•~~ | ~~A complete application on a form provided by the Administrator.~~ |
| ~~•~~ | ~~•~~ | ~~•~~ | ~~•~~ | ~~•~~ | ~~A signed statement from the facility's owner or owner's agent stating that the radio frequency emissions comply with FCC standards for such emissions.~~ |
| ~~•~~ | ~~•~~ | ~~•~~ | ~~•~~ | ~~•~~ | ~~Proof that the proposed facility is designed to withstand sustained winds of 110 mph and a 15-second wind gust of 130 mph.~~ |
| ~~•~~ | | ~~•~~ | | ~~•~~ | ~~Proof that the proposed antenna supporting structure has been designed so that, in the event of structural failure, the facility will collapse within the boundaries of the lot on which it is located.~~ |
| ~~•~~ | | | | ~~•~~ | ~~A license (and for broadcast structures, a construction development approval) issued by the FCC to transmit radio signals in the County.~~ |
| ~~•~~ | ~~•~~ | ~~•~~ | ~~•~~ | ~~•~~ | ~~The contact information for the owner of any proposed or existing antenna supporting structure, and a statement that such information will be updated annually or upon a change of ownership.~~ |
| ~~•~~ | | ~~•~~ | | ~~•~~ | ~~A statement of the height above sea level of the highest point of the proposed facility.~~ |
| ~~•~~ | ~~•~~ | | | ~~•~~ | ~~A stamped or sealed structural analysis of the facility prepared by a professional engineer, certified by the State of New Mexico indicating the proposed and~~ |

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| ~~Antenna Supporting~~ | ~~Collocations~~ | ~~Roof Mounted~~ | ~~Surface Mounted~~ | ~~Stealth Facilities~~ | ~~Required Submissions:~~ |
|---|---|---|---|---|---|
| | | | | | ~~future loading capacity of the facility.~~ |
| ~~●~~ | | | | ~~●~~ | ~~One original and two copies of a survey of the lot completed by a registered land surveyor indicating all existing uses, structures, and improvements.~~ |
| ~~●~~ | | | | ~~●~~ | ~~Photo-simulated post-construction renderings of the proposed facility, equipment enclosures, and ancillary appurtenances as they would look after construction from locations to be determined by the participants during the pre-application conference.~~ |
| ~~●~~ | | ~~●~~ | | ~~●~~ | ~~Proof of FAA compliance with Subpart C of the Federal Aviation Regulations Part 77, "Objects Affecting Navigable Airspace".~~ |
| ~~●~~ | | ~~●~~ | ~~●~~ | ~~●~~ | ~~Shared use plan.~~ |
| ~~●~~ | | | | ~~●~~ | ~~If required by the US Fish and Wildlife Service, a letter indicating that the proposed antenna supporting structure and appurtenances are in compliance with all applicable federal rules and regulations.~~ |
| ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~Existing wireless communication facilities to which the proposed facility will be a hand-off candidate, including latitude, longitude, and power levels of each facility.~~ |
| ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~A letter of consent from the airport authority if within any noise or safety zone.~~ |
| ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~A graphical representation with statement of the coverage area planned for the cell to be served by the proposed facility.~~ |
| ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~A graphical representation, and an accompanying statement, of the search area used to locate the proposed facility.~~ |
| ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~A radio frequency plot indicating the coverage of existing wireless communication sites, and that of the proposed site sufficient to demonstrate geographic search area, coverage prediction, and design radius.~~ |
| ~~●~~ | | ~~●~~ | | ~~●~~ | ~~A statement by a qualified professional engineer specifying the design structural failure modes of the proposed facility.~~ |
| ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~●~~ | ~~Antenna heights and power levels of the proposed facility and all other facilities on the subject property.~~ |

~~**10.17.3.4. Application Review Standards.** Application review standards are indicated by facility type below in sections §10.17.3.5 through §10.17.3.7 and are in addition to the applicable standards of Chapters 7 and 8. Where any standards included in Chapters 7 and 8 conflict with the standards of this §10.17 (including the overall height requirements set forth in Table 10-3), the standards of this §10.17 shall govern.~~

~~**10.17.3.5. Expert Review of Application.**~~

~~**1.** Due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the Administrator or the Planning Commission may require a technical review by a third-party expert, the cost of which shall be borne by the applicant. The expert review may address the following:~~

~~**a.** The accuracy and completeness of submissions;~~

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~~**b.** The applicability of analysis techniques and methodologies;~~

~~**c.** The validity of conclusions reached;~~

~~**d.** Whether the proposed wireless communication facility complies with the applicable approval criteria set forth in this chapter and other sections of the SLDC; and~~

~~**e.** Any other matters deemed by the Administrator to be relevant in determining whether a proposed wireless communication facility complies with the provisions of this Chapter, the SGMP and other sections of the SLDC.~~

~~**2.** Based on the findings and conclusions of the expert review, the Administrator may require changes to the applicant's application or required submissions.~~

~~**3.** The applicant shall reimburse the County for the engineering review required in Section 10.17.3.5 by depositing funds or a letter of credit with the Administrator in an amount to be determined by the Administrator. Any refund or requirement for additional amounts will be determined within 10 working days of the date of receipt of an invoice for expenses associated with the third-party expert's review of the application. Failure by the applicant to make reimbursement pursuant to this section will abate the pending application until payment in full is received.~~

~~**10.17.3.6. Timing of Review.** Notwithstanding the standard review/approval timeframes for development permits under the SLDC, applications for wireless communication facilities subject to the Federal Telecommunications Act shall receive a final decision: within 90 days after an application has been deemed complete for collocations; and within 150 days after an application has been deemed complete for siting of new facilities. This timeframe does not include time taken by the applicant to respond to requests for additional or revised application information. The applicant and Administrator may agree to an extension of this time limit. Notwithstanding the above deadlines, the failure of the County to provide a final decision within the applicable timeframe does not result in automatic approval of the application — it merely allows the applicant to commence an action in accordance with the provisions of the Federal Telecommunications Act.~~

~~**10.17.3.7. Denial of Application.** Any development order issued by the Administrator, the Planning Commission, or the Board that denies an application request shall be in writing and supported by substantial evidence contained in the written record of findings made by the Administrator, the Planning Commission, or the Board. Notwithstanding the foregoing, any application for siting a new 'personal wireless service facility' (as defined in the Federal Telecommunications Act) may not be denied on the sole basis that service is available from another provider or providers.~~

~~**10.17.4. Standards for Antenna Supporting Structures.**~~

~~**10.17.4.1. Height.** Except for amateur radio antennas, the overall height of any antenna supporting structure may not exceed 149 feet, except as provided in this section. Antenna supporting structures proposed within a designated notification height boundary of an airport, private airport, aircraft landing strip or helicopter landing facility, as specified on the Airspace Notification Map, will be limited to the height specified, based on the~~

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~~proposed facility's distance from the runway or landing facility. Proposed broadcast antenna supporting structures that have received a construction development approval from the Federal Communications Commission may be constructed in accordance with the following:~~

~~**1.** AM broadcast antenna supporting structures may not exceed 250 feet in overall height; and~~

~~**2.** Except as provided in 10.17.4.1.1 above, the overall height of a broadcast antenna supporting structure may not exceed 500 feet.~~

~~**10.17.4.2. Setbacks.**~~

~~**1.** Antenna supporting structures, equipment enclosures, and ancillary appurtenances shall meet the minimum setback requirements for the zoning district in which they are proposed.~~

~~**2.** Antenna supporting structures shallt be set back a distance equal to their overall height from the lot line of any lot that contains a residential use or that is within a residential zoning district. If more than one of the setback requirements applies to an antenna supporting structure, the more restrictive requirement will govern.~~

~~**3.** Setback requirements for replacement antenna supporting structures may be reduced by an amount not to exceed 50 percent of that required by this chapter, but in no case may a replacement structure be placed any closer to a lot line than the antenna supporting structure it is replacing. No waiver or variance will be granted pursuant to this paragraph unless the applicant demonstrates that the existing structure cannot be replaced in compliance with this chapter without a waiver.~~

~~**10.17.4.3. Construction.** Antenna supporting structures shall have a monopole type construction only, except as follows:~~

~~**1.** Broadcast structures with an overall height of greater than 200 feet may have a lattice-type construction;~~

~~**2.** Amateur radio antennas may have a monopole-, lattice-, or guyed-type construction; and~~

~~**3.** AM broadcast antenna supporting structures may have a monopole- or lattice-type construction.~~

~~**10.17.4.4. Lighting.**~~

~~**1.** No lights, signals, or other illumination will be permitted on any antenna supporting structure or ancillary appurtenances unless that lighting is required by the FAA or the FCC.~~

~~**2.** Site lighting may be placed in association with an approved equipment enclosure but shall be shielded to prevent light trespass. Site lighting shall remain unlit except when authorized personnel are present.~~

~~**10.17.4.5. Intensity Requirements.** The floor area for a wireless communication~~

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~~facility will be calculated based on the total square footage of all equipment enclosures associated with the facility.~~

~~**10.17.4.6. Color.** Antenna supporting structures and ancillary appurtenances, including transmission lines, shall maintain a sandstone finish or other contextual or compatible color as determined by the Administrator, except as otherwise required by the FAA or the FCC.~~

~~**10.17.4.7. Fencing.** A fence of at least six (6) feet in height from finished grade shall be installed in order to enclose the base of the antenna supporting structure and associated equipment. Access to the antenna supporting structure shall be controlled by a locked gate. The fence shall be constructed in accordance with Chapter 7. Barbed wire construction will be allowed solely at the discretion of the Administrator.~~

~~**10.17.4.8. Signage.**~~

~~**1.** No signs may be placed on antenna supporting structures, ancillary appurtenances, equipment enclosures, or on any fence or wall except as required by this subsection.~~

~~**2.** If high voltage is necessary for the operation of proposed wireless communication facilities, "High Voltage—Danger" and "No Trespass" warning signs not greater than one square foot in area shall be permanently attached to the fence or wall at intervals of at least 40 feet and upon the access gate.~~

~~**3.** A sign not greater than one square foot in area shall be attached to the access gate that indicates the following information: federal registration number, if applicable, name of owner or contact person; and emergency contact number.~~

~~**10.17.4.9. Accommodation of Future Collocations.**~~

~~**1.** Antenna supporting structures shall be designed to accommodate future collocations. The exact amount of additional equipment to be accommodated will be agreed upon during the pre-application conference.~~

~~**2.** As a condition of approval under this chapter, the applicant shall submit a shared use plan that commits the owner of the proposed antenna supporting structure to accommodate future collocations where reasonable and feasible in light of the criteria set forth in this section.~~

~~**10.17.4.10. Proliferation Minimized.**~~

~~**1. Generally.** Antenna supporting structures will not be permitted unless the applicant demonstrates that the proposed antenna cannot be accommodated on an existing building or structure or by construction of a stealth facility.~~

~~**2. Letters of coordination.** At the pre-application conference, the applicant shall provide documentation that the following notice was mailed, via certified mail, return receipt requested, to all providers or, where applicable, to owners of existing antenna supporting structures, and that the applicant was unable to secure a lease agreement with a provider to allow the placement of the proposed antennas on an existing structure or building within the geographic search area, as follows:~~

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~~"Pursuant to the requirements of the Santa Fe County Sustainable Land Development Code, [NAME OF APPLICANT] is providing you with this notice of intent to meet with the Administrator in a pre-application conference to discuss the location of a free-standing wireless communication facility to be located at [LOCATION].~~

~~[APPLICANT] plans to construct an antenna supporting structure of [NUMBER OF] feet in height for the purpose of providing [TYPE OF WIRELESS SERVICE].~~

~~Please inform the County Administrator and [APPLICANT] if you intend to place additional wireless communication facilities within two miles of the proposed facility, or if you have knowledge of an existing building or structure that might accommodate the antenna(s) associated with our proposed facility.~~

~~Please provide us with this information within 10 days following the receipt of this letter.~~

~~Sincerely,~~
~~[APPLICANT, WIRELESS PROVIDER]~~

~~The Administrator shall maintain a list of known wireless service providers and owners. Letters of coordination shall be mailed not less than 10 business days prior to the pre-application conference required by this section and shall request a response from the recipient within 10 days of receipt.~~

~~**3. Siting priorities.** In order to justify the construction of an antenna supporting structure, the applicant shall demonstrate that higher-ranking alternatives in the following order do not constitute feasible alternatives: collocated or combined antennas; surface-mounted antennas; roof-mounted antenna supporting facility; and stealth wireless communication facility. Such demonstration shall be made by submission of a statement of position, qualifications, and experience by a licensed radio frequency engineer.~~

~~**4. Additional evidence.** As appropriate, the following evidence may also be submitted to demonstrate compliance with this section: that no existing wireless communication facility within the geographic search area meets the applicant's radio frequency engineering or height requirements; that no building or structure within the geographic search area has sufficient structural strength to support the applicant's proposed antennas; or that there are other limiting factors that render collocated, surface-mounted, roof-mounted, or stealth facilities unsuitable or unreasonable.~~

~~**10.17.4.11. Visual Impacts Minimized.**~~

~~**1. Generally.** Antennas shall be configured on antenna supporting structures in a manner that is consistent with the character of the surrounding community and that minimizes adverse visual impacts on adjacent properties.~~

~~**2. Antenna-type priorities.** In order to justify the use of an antenna type lower in the hierarchy, the applicant shall adequately demonstrate that higher-ranked~~

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~~alternatives in the following order cannot be used: flush mounted, panel, whip and dish. Such demonstration shall be made by submission of a statement of position, qualifications, and experience by a licensed radio frequency engineer familiar with said alternatives.~~

~~**10.17.4.12. District Impacts Minimized.** In order to justify locating a proposed antenna supporting structure within a zoning district lower in the hierarchy, the applicant shall adequately demonstrate that siting alternatives within higher-ranked districts in the following order are not reasonable or feasible: developments of countywide impact; industrial; commercial; agricultural/ranching; planned districts; residential and rural residential; flood hazard areas, habitat areas and corridors, mountains and hillsides, rivers and streams, wetlands, scenic byways and trails; or airport overlay. Such demonstration shall be made by submission of a statement of position, qualifications, and experience by a licensed radio frequency engineer.~~

~~**10.17.5. Standards for Collocations.**~~

~~**10.17.5.1. Height.** Collocations may not increase the overall height of an antenna supporting structure beyond any previously approved height.~~

~~**10.17.5.2. Color.** All collocated antennas and ancillary appurtenances shall maintain a sandstone finish or other contextual color that is compatible with the environment or the building to which they are attached.~~

~~**10.17.5.3. Visual impact minimized.** Collocations will be approved only in accordance with the visual impact requirements and hierarchy set forth at §10.17.4.11.~~

~~**10.17.6. Standards for Roof-Mounted Antenna Supporting Structure.**~~

~~**10.17.6.1. Height.**~~

~~**1.** The roof-mounted antenna supporting structure, attachment device, equipment enclosure, and/or any ancillary appurtenance may not extend above the roof line of the building upon which it is attached by more than twenty (20) feet.~~

~~**2.** Roof-mounted wireless structures with an overall height of greater than 50 feet are considered antenna supporting structures subject to the applicable standards of this chapter.~~

~~**3.** Roof-mounted antenna supporting structures proposed within the O-AN Zone.~~

~~**4.** An antenna located on the building roof shall be governed by the regulations for the maximum height of structures of the applicable district.~~

~~**10.17.6.2 Location and placement.** Roof-mounted antennas may be placed only on commercial, institutional, industrial, and multifamily buildings at least 35 feet in height.~~

~~**10.17.6.3. Screening and placement.**~~

~~**1.** Roof-mounted structures shall be screened by a parapet or other device in order to minimize their visual impact as measured from the lot line of the subject~~

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~~property. Roof-mounted facilities shall be placed as near the center of the roof as possible.~~

~~**2.** Transmission lines placed on the exterior of a building shall be camouflaged or otherwise shielded within an appropriate material that is the same color as, or a color consistent with, the building to which they are attached.~~

~~**10.17.6.4. Construction.** Roof-mounted structures shall have a monopole-type construction.~~

~~**10.17.6.5. Color.** Roof-mounted structures, ancillary appurtenances, and equipment enclosures shall maintain a finish or other contextual color that is the same color as, or a color consistent with, the building to which they are attached.~~

~~**10.17.6.6. Signage.** No signs may be placed on any roof-mounted structure, ancillary appurtenances, or equipment enclosures.~~

~~**10.17.6.7. Visual impact minimized.** Roof-mounted structures will be approved only in accordance with the visual impact requirements and hierarchy set forth at §10.17.4.11.~~

~~**10.17.7. Standards for Surface-Mounted Antennas.**~~

~~**10.17.7.1. Screening and placement.** Surface-mounted antennas shall be placed not less than 15 feet from the ground and, where proposed for placement on a building, shall be placed so that no portion of the antenna is less than three feet below the roof line.~~

~~**10.17.7.2. Color.** Surface-mounted antennas and associate ancillary appurtenances shall maintain a color that is the same as the surface to which they are attached, unless another color is more compatible within the context of the proposed facility and the surrounding environment. Transmission lines shall be camouflaged or otherwise shielded within an appropriate material that is the same color as, or a color consistent with, the building or structure to which they are attached.~~

~~**10.17.7.3. Visual impact minimized.** Surface-mounted antennas will be approved only in accordance with the visual impact requirements and hierarchy set forth at §10.17.4.13.~~

~~**10.17.8. Standards for Stealth Facilities.**~~

~~**10.17.8.1. Height.** The overall height of a proposed stealth facility shall be limited to that which is consistent with the zoning district in which the facility is to be located, and which is consistent with the surrounding community. However, in no case may the overall height of any stealth facility exceed 149 feet. Stealth wireless communication facilities proposed within a O-AN district, will be limited to the height specified.~~

~~**10.17.8.2. Setbacks.**~~

~~**1.** Stealth wireless communication facilities, ancillary appurtenances, and equipment enclosures shall meet the minimum setback requirements for the zoning district in which they are proposed.~~

~~**2.** Setback requirements for stealth facilities may be reduced if it is determined that such a reduction is necessary to reduce the visual impact or enhance the compatibility of the proposed facility.~~

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~~**10.17.8.3. Aesthetics.** No stealth facility may have antennas or ancillary equipment that is readily identifiable from the public domain as wireless communication equipment. Stealth facilities shall be designed so they are reasonably consistent with the surrounding built or natural environment. In order to determine compliance with this requirement, the following criteria will be considered:~~

~~**1.** Overall height;~~

~~**2.** The compatibility of the proposed facility with surrounding built and natural features;~~

~~**3.** Scale;~~

~~**4.** Color;~~

~~**5.** The extent to which the proposed facility has been designed to reasonably replicate a non-wireless facility (e.g., a silo, flagpole, or tree); and~~

~~**6.** The extent to which the proposed facility is not readily identifiable as a wireless communication facility.~~

~~**10.17.9. Discontinuance and removal of facilities.**~~

~~**10.17.9.1. Notice of discontinuance.** In the event that all legally approved use of an antenna supporting structure or antenna has been discontinued for a period of 180 days, the Administrator shall make a preliminary determination of discontinuance and revocation of the development permit or CUP. In making such a determination, the Administrator may request documentation and/or affidavits from the property owner and the owner of the wireless facility as to the continued use of the facility. The property owner and owner of the wireless facility shall file a consolidated annual report with the Administrator as to the continued use of the facility and provide updated contact information. Failure on the part of a property owner or owner of the wireless facility to provide the annual report shall be presumptive evidence of discontinuance. At such time as the Administrator reasonably determines that an antenna supporting structure or antenna has been discontinued, the Administrator shall provide the property owner and owner of the wireless facility with a written notice of discontinuance and revocation of the CUP by certified mail and set the matter for a public hearing with the Planning Commission for the first available hearing date 30 days after the notice of discontinuation and revocation of the CUP was mailed. Failure on the part of the property owner or owner of the wireless facility to respond to the notice of discontinuance and revocation of the CUP, or to adequately demonstrate at the public hearing that the structure is not discontinued, will be evidence of discontinuance. Based on the foregoing or on any other relevant evidence before the Planning Commission, the Planning Commission shall make a final determination of discontinuance and revocation of the CUP, with written findings and conclusions. If the Planning Commission determines that the use of the wireless facility has been discontinued, it may issue a development order revoking the CUP upon such reasonable terms as the Planning Commission in its quasi-judicial capacity shall determine. The development order will be mailed to the property owner and the owner of the wireless facility by certified mail return receipt requested.~~

~~**10.17.9.2. Removal of facility.** Within 120 days of a declaration of discontinuance, the property owner shall either:~~

~~**1.** Reactivate the use of the structure as a wireless communication facility or~~

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~~transfer ownership of the structure to another owner who will make appropriate use of the facility pursuant to the terms of the SUP or applicable development order.~~

~~**2.** Dismantle and remove the facility. If the facility remains discontinued upon the expiration of 120 days, the County may, upon 10 days written notice to the property owner and the owner of the wireless facility, enter upon the property and remove the facility, with all costs to be borne by the property owner.~~

~~**10.17.10. Nonconforming Antenna Supporting Structures.** Within ten (10) years of the effective date of this section, antenna supporting structures made nonconforming by implementation of this section shall either comply with its provisions or be removed. The property owner may extend the time period for compliance or removal by applying for a variance, and further demonstrates that the requirements of this section impose an unreasonable burden on the ability of a provider to provide personal wireless services pursuant to a license from the FCC or by reason of federal law.~~

~~**10.17.11. Variance Criteria.** No variance will be granted to the provisions of this section unless the Planning Commission makes one of the following written findings of fact and conclusions:~~

~~**10.17.11.1.** That failure to grant the variance would prohibit or have the effect of prohibiting the provision of personal wireless services in violation of a license issued by the FCC; or federal law;~~

~~**10.17.11.2.** That failure to grant the variance would unreasonably discriminate among providers of functional equivalent personal wireless services;~~

~~**10.17.11.3.** That the variance will obviate the need for additional antenna supporting structures;~~

~~**10.17.11.4.** That the variance is necessary to ensure adequate public safety and emergency management communications; or~~

~~**10.17.11.5.** That the variance is the minimum necessary in order for the applicant to provide broadcast services pursuant to an FCC-issued construction development approval.~~

~~**10.17.12. Amateur radio antennas and radio facilities.** Amateur radio antennas and radio facilities may be allowed as an accessory uses to other permitted uses and shall comply with the following standards:~~

~~**1.** Amateur radio antennas and radio facilities shall be owned and operated by a person holding a valid amateur radio station operator license issued by the FCC.~~

~~**2.** A minimum setback of the height of the facility shall be required~~

~~**3.** Guyed structure's anchors shall be setback five feet from the property line~~

~~**4.** All lattice towers shall either be within a yard enclosed by a six foot fence of solid construction or protected by a climb guard device at least six feet high.~~

~~**5.** Maintenance or replacement of existing facilities that does not increase the height shall be allowed without a permit.~~

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~~**6.** Amateur radio antennas and radio facilities shall not exceed 45 feet in height.~~

~~**7.** Crank up amateur radio antennas may extend to a maximum height of 75 feet, provided the lowered height does not exceed 45 feet and the crank up tower is retracted when not in use.~~

~~**8.** Heights greater than the above may be approved by application for a Conditional Use Permit, provided that the structure is reasonably necessary for the principal use, the proposed height is the minimum necessary for proper functioning, and the proposed accessory structure will not adversely affect neighboring properties.~~

**10.18. SATELLITE DISH ANTENNAS.**

**10.18.1 Applicability.** This section applies to any satellite dish antenna except:

**10.18.1.1.** An antenna that is one meter (3.28 feet) or less in diameter and is used to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite;

**10.18.1.2.** An antenna that is one meter (3.28 feet) or less in diameter or diagonal measurement and is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite;

**10.18.1.3.** An antenna of any size that is used for residential purposes to receive television broadcast signals and high speed internet; and

**10.18.1.4.** A mast supporting an antenna described in the subsections .1-.3 above.

**10.18.2. Location.** A satellite dish antenna shall not be located or mounted:

**10.18.2.1.** In the required front or side yards in any residential or commercial district; or

**10.18.2.2.** On the roof or wall of a building that faces a public right-of-way.

**10.18.3. Development Permit.** A satellite dish antenna in excess of the dimensions described above requires a development permit with site development plan approval.

**10.18.4. Screening.** Without restricting its operation, a satellite dish antenna located on the ground shall be screened from view from public roads and from adjacent properties.

**10.18.5. Height.** A satellite dish antenna located on the building roof shall be governed by the regulations for the maximum height of structures of the applicable district.

**10.19. SMALL SCALE SAND AND GRAVEL EXTRACTION.**

**10.19.1. Applicability.** This section applies to any mineral extraction activity for construction materials, including but not limited to, stone, sand, gravel, aggregate, or similar naturally occurring construction materials that affects less than 10 acres of land and extracts less than 20,000 tons of construction material and does not use blasting. Such activity shall be allowed where permitted by the Use Table, Exhibit B, subject to approval of a conditional use permit (§ 4.9.6.) and the additional

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requirements of this section. If the extraction activity requires blasting, then this section shall not apply and the operation will be treated as a Development of Countywide Impact under Chapter 11.

**10.19.2. Related Uses.** Related office and material processing uses may be permitted at the sand and gravel extraction sites where approved as part of the conditional use permit and constructed and operated in compliance with the SLDC and so long as the use is consistent.

**10.19.3. Application.** In addition to the submittal requirements for a conditional use permit (§ 4.9.6.), including any studies, reports and assessments required by Table 6-1, an application for approval of a small scale sand and gravel extraction facility shall include the following:

**10.19.3.1. Operations Plan.** An operations plan for the facility consisting of the following:

**1.** Maps, plans, graphics, descriptions, timetables, and reports which correlate and specify:

**a.** a detailed description of the method(s) or technique(s) to be employed in each stage of the operation where any surface disturbance will occur;

**b.** the size and location of area(s) to be disturbed, which includes excavations, overburden spoils, topsoil stockpiles, driveways and roads;

**c.** pursuant to the standards of §7.17 (Terrain Management), a description of all earthmoving activities, including backfilling of cuts and leveling or compaction of overburden;

**d.** if applicable, the location and size of all water diversions and impoundments or discharge of water used in extraction operations;

**e.** areas to be used for storage of equipment and vehicles;

**f.** location and size of any structures;

**g.** areas designated to be reclaimed;

**h.** hours of operation and, if applicable, a description of outdoor lighting; and

**i.** fire protection plans.

**2.** A description of how construction materials will be processed on and/or removed from the site.

**3.** A description of how each phase of exploration or extraction correlates to the reclamation plan.

**4.** A timetable for each phase of operations and reclamation.

**5.** A description of the steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards.

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**6.** A drainage control plan showing methods which will be utilized to avoid erosion on and adjacent to the site.

**7.** A description of all hazardous materials to be used and transported in connection with the activity and a description of steps that will be taken to insure that the use of such materials will have no adverse impact on the residents or environment of Santa Fe County.

**8.** A description of the projected noise to be generated and an explanation of how the operator will comply with the requirements of §7.21.4 (Noise).

**9.** A statement concerning compliance, as applicable, with regulations of the Federal Aviation Administration (FAA).

**10.19.3.2 Operational Standards and Requirements.**

**1. State Permits.** All small scale sand and gravel extraction operations shall submit all required state permits, FEMA and/or Army Corps of Engineers permits with the conditional use permit.

**2. Hours of Operation.** Hours of operation are limited to the period between sunrise or 7:00 a.m. whichever is latest, and sunset or 6:00 p.m., whichever is earliest, Monday through Saturday.

**3. Water Supply.** Extraction and filling of a reservoir shall not infringe on a downstream appropriator's rights.

**4. Project Traffic Impacts:**

**a.** All roads carrying sand and gravel related traffic shall conform to the requirements of Section 7.11 (Road Design Standards) of the SLDC.

**b. Transportation Facility Improvements.** An analysis of all roads accessing the site shall be submitted to the County with detailed information concerning the ability of the roads to adequately support the projected traffic, including potential weight of vehicles for 20 years or the life of the sand and gravel extraction operation. Cost of all improvements required, on and off-site, shall be borne entirely by the applicant.

**c. Trip Generation.** The Planning Commission may establish a maximum number of truck trips allowed to enter and exit a processing location.

**d. Traffic Counts.** Traffic counts at the entrance of the operation may be required.

**e. Designation of construction and haul routes.** The application shall designate proposed truck haul and traffic routes that shall be subject to limitation by the Planning Commission, which proposal shall:

**i.** identify the primary haul route including existing road conditions;

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**ii.** identify residential areas, commercial areas, environmentally and visually sensitive areas, schools and other civic buildings along the haul route,

**iii.** identify alternative routes;

**iv.** identify the timing of truck haul traffic; and

**v.** include a fugitive dust plan for designated routes to prevent loss of loads and fugitive dust during transportation.

**5. Project Description.** The applicant shall provide a detailed statement describing the project including:

**a.** The amount and type of materials to be excavated;

**b.** Duration of the excavation activity and reclamation activity;

**c.** The proposed method of excavation;

**d.** The amount of fill to remain on site; and

**e.** A statement from a New Mexico professional engineer indicating the type of material(s) to be excavated and their suitability for road and structural fill construction.

**6. Access.** Adequate and available access required per Section 7.4 (Access and Easements) of the SLDC.

**7. Visual Screening Measures.** Visual screening, which shall include all phases, is required per Section 7.6 (Landscaping and Buffering) of the SLDC plus the following standards:

**a. General.** The view from all public roads, rivers, parks, open space and adjoining residential areas shall be screened.

**b. Buildings.** All buildings' design, scale, and location shall be minimized.

**c. Surrounding Vegetation.** Any vegetation on site that can act as screening of the extraction area shall be preserved, including vegetation existing in the required setbacks.

**8. Lighting.** All small scale sand and gravel operations must comply with Section 7.8 (Lighting) of the SLDC.

**9. Signs.** All small scale sand and gravel operations must comply with Section 7.9 (Signs) of the SLDC, but are limited to two signs of 4 square feet each.

**10. Parking and Loading.** All small scale sand and gravel operations must comply with Section 7.10 (Parking and Loading) of the SLDC.

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**11. Hazardous Materials.** Any fuel, explosives, or other hazardous materials stored on the site shall be contained within an impoundment structure.

**12. Wildlife.** Protection is required for critical environmental resources including wetlands, riparian areas, and important wildlife habitats.

**a.** Any modification of the terrain within a floodplain area shall be environmentally sound and not result in net loss of wildlife habitat.

**b.** All small scale sand and gravel operations shall be limited to locations and times of year that ensure no significant negative impacts to federally listed endangered species.

**c.** No sand and gravel development shall interrupt a wildlife corridor.

**13. Protection of Historic and Archaeological Resources.** Any application for small scale sand and gravel extraction shall submit an archaeological report conforming to the requirements of Section 7.16 (Protection of Historic and Archaeological Resources) of the SLDC.

**14. Terrain Management.** Requirements of Section 7.17 (Terrain Management) of the SLDC shall be met.

**a. Removal of Organic Materials.** Fill areas shall be properly prepared by removing organic materials, such as vegetation and rubbish, and any other material which is detrimental to the proper compaction of the site or not otherwise conducive to the stability of the site.

**b. Site Vegetation Removal and Revegetation.** The removal of existing vegetation shall not occur more than 30 days prior to the commencement of grading; however, permanent revegetation shall be commenced as soon as practical after the completion of grading. Site specific native seed mixtures shall be used to revegetate all disturbed areas with the exception of lawn and landscaped areas if any. Mulching shall be used in order to assure vegetation growth.

**c. Topsoil, Stripping, Stockpiling, and Redistribution.** The existing topsoil shall be stripped and stockpiled on site for redistribution over the completed final grade.

**d. Cut and Fill Slopes.** Cut and fill slopes shall be graded to a slope no steeper than 2:1, or 50%, to allow for permanent revegetation or landscaping unless a retaining wall is used or a steeper slope is approved by the County. The County may require the submission of a detailed engineering report and analysis prepared by a professional engineer or landscape architect relative to the safety of such cuts and fills, if necessary considering soil type, soil stability, and any proposed structures.

**15. Sediment and Erosion Control.** Practices for sediment and erosion control shall be designed, constructed and maintained to mitigate further entry of sediment to streams, lakes, ponds, or any land outside the permit area. Where applicable, sediment and erosion control measures to prevent degradation of the

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environment shall be instituted and consist of utilization of proper reclamation methods and sediment control practices including, but not limited to:

**a.** grading material to reduce the rate and volume of run-off;

**b.** retaining sediment within the pit and disturbed area; and,

**c.** establishing temporary vegetation or mulch on short term erosion, sedimentation or windblown dust.

**16. Air Quality and Noise.**

**a.** The requirements of Section 7.21 (Air Quality and Noise) of the SLDC shall be met; however, only a preliminary air quality report is required for submittal with the application. Once approved, a final air quality permit is required prior to commencement of any activity on the site.

**b. Noise Study.** A noise study showing the projected noise from the specific equipment to be used is required to be submitted with the application. Such noise study shall provide a baseline of three consecutive weekdays representative of non-excavation activities.

**c. Fugitive Dust Control.** Dust control is required for all active sand and gravel extraction operations.

**i.** The presence of dust at a sand and gravel operation is attributable to earth moving, soil or surface disturbance, construction or demolition; movement of motorized vehicles on any paved or unpaved roadway or surface, right-of-way, lot or parking area; and the tracking out or transport of bulk material (i.e., sand, gravel, soil, aggregate, or any other inorganic or organic material capable of creating fugitive dust related to extraction activities) onto any paved or unpaved roadway in Santa Fe County.

**ii.** Fugitive dust consists of airborne particulate matter from a source, resulting in particulate matter emissions that can be detected by the human eye.

**iii.** Dust control measures include but are not limited to the use of wet suppression through manual or mechanical application; the use of fabric fencing material or equivalent that shall be a minimum of 24 inches in height and anchored 6 inches below the surface on the bottom edge installed around the perimeter of the disturbed surface area; the use of dump truck tarps; and the use of chemical dust suppressant applied in amounts, frequency, and rates recommended by the manufacturer.

**iv.** In no circumstances shall a small scale sand and gravel operator continue extraction operations during a high wind event.

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**v.** All small scale sand and gravel operations shall incorporate an entry/exit apron, steel grates, or other equivalent devices capable of removing bulk material from the tires of vehicle traffic.

**vi.** An applicant for a small scale sand and gravel conditional use permit shall submit a fugitive dust control plan as part of the application. The fugitive dust plan must detail the control measures the operator intends to use to reduce the quantity of visible fugitive dust, transported material, temporary cessation of activity during a high wind event and track-out leaving the property or area under the control of the operator.

**17. Setbacks.**

**a.** 200 feet from all property lines.

**b.** 200 feet from all public road rights-of-way, public recreational easements, and environmentally sensitive lands.

**c.** Vegetation within the setbacks from the property boundary shall be preserved and supplemented, as necessary, for mitigation of negative impacts. Existing native vegetation on the entire operation site shall be preserved to the maximum extent possible

**18. Protection Trespassing.** The proposed use shall be fenced in accordance with the standards in Section 7.7. (Fences and walls) of the SLDC, for health and safety protection.

**19. Height.** Any equipment used for small scale sand and gravel extraction must meet the height standards for the zoning district in which it is located. Height shall be measured from existing grade prior to commencement of any grading activity on the site, and shall also conform to the height measurement requirements of Section 7.17.9.3.

**20. Activities In or Near Water Bodies.**

**a. Uncontrolled/Natural Watercourses.** When working near uncontrolled, or naturally flowing, watercourses, the proposed operation shall be conducted in a manner that improves fisheries and waterfowl habitat. This requirement shall apply to any water body, which shall include: naturally occurring rivers, streams, ponds, lakes, seasonal streams and seasonal lakes.

**b. Minimum Buffer.** A minimum 100 foot buffer of natural vegetation between the water's edge and any small scale sand and gravel operation site is required.

**c. No Negative Impact.** No extraction shall be permitted that is deemed by the County to have a negative impact on the water body or neighbors.

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**21. Solid Waste.** All small scale sand and gravel operations must comply with Section 7.20 (Solid Waste) of the SLDC.

**22. Liquid Waste.** All small scale sand and gravel operations must comply with the wastewater requirements of Section 7.13 (Water Supply, Wastewater and Water Conservation) of the SLDC.

**23. Phasing.** All phases shall be clearly staked prior to commencement of any activity on the property. The applicant must GPS all stakes and make them digitally available to the County upon request in GIS format based on the standard Santa Fe County GIS spatial reference.

**a.** Only one phase of the development shall be excavated at a time.

**10.19.3.3. Reclamation Plan and Bonding.** A reclamation plan shall be provided that is designed and certified by a New Mexico registered professional engineer or landscape architect, and meets the reclamation standards specified below in Section 10.19.3.4. The plan shall restrict extraction operations to areas of workable size so that no area is left inactive and un-reclaimed for more than 60 days, unless approved by the conditional use permit. The plan shall specify any phasing of reclamation and estimate the cost of the entire reclamation project. A bond shall be posted to implement the reclamation plan at 125% of expected cost of the reclamation. The reclamation plan does not replace a landscape plan that may be required for any subsequent development of the gravel processing and extraction site.

**10.19.3.4. Reclamation Standards.** The reclamation plan shall comply with the following standards:

1. **General.** Reclamation shall restore land areas to a condition suitable for new land uses. Wildlife habitat shall be restored in a manner comparable or better, to the habitat conditions that existed prior to the gravel operation. In general, all slopes shall be graded to 3:1 or flatter to promote revegetation.

2. **Grading.** Disturbed areas shall be re-graded to blend into and conform to the general natural form and contours of the adjacent areas. In general, all slopes (cut or fill) shall be graded to 3:1 or flatter. Such methods must be approved as part of the Reclamation Plan.

3. **Revegetation of all disturbed areas is required.** The plan shall describe the vegetation prior to any grading of the site and shall demonstrate how the site will be returned to its original, or better vegetated condition.

4. Mining operations shall be allowed to progress so long as the disturbed areas within previous phases have been reclaimed within 6 months after the commencement of the new phase; provided that, the County will consider extensions due to weather conditions and taking into account seasonal changes. Reclamation shall commence within 30 days of the commencement of a new phase of extraction.

5. **Prior to Approval of Reclamation Study.** In no case shall a location and time of excavation be approved that may have negative impacts on any state or federally designated endangered or threatened species, or critical habitat.

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**10.19.3.5. Annual Operating Plan and Monitoring Report.** An annual operating plan and monitoring report, capable of audit, shall be prepared and submitted to the Land Use Administrator by January 31st each year. The report shall summarize the operations of the previous year including number of truck trips and sizes of trucks, the area mined, quantities mined in tonnage and cubic yards, the amount of area undergoing reclamation, and the success of reclamation including any violations issued and their outcome.

**10.19.3.6. Existing small scale sand and gravel extraction uses.** Any small scale sand and gravel extraction use existing prior to January 1, 1981 and having been in continuous operation, may continue operations and may expand up to 25% beyond the area currently and formerly mined on that parcel. Any small scale sand and gravel extraction use approved by the County prior to the adoption of this SLDC may continue operations in accordance with their final County approvals. Any new phase or further expansion proposed, but not previously approved, shall comply with this SLDC.

~~**10.19.1. Applicability.** This section applies to any mineral extraction activity for construction materials, including but not limited to, stone, sand, gravel, aggregate, or similar naturally occurring construction materials. Such activity shall be allowed where permitted by the Use Table, Exhibit B, subject to approval of a conditional use permit (§ 4.9.6.) and the additional requirements of this section. If the extraction activity requires blasting, then this section shall not apply and the operation will be treated as a Development of Countywide Impact under Chapter 11.~~

~~**10.19.2. Related Uses.** Related office and material processing uses may be permitted at the sand and gravel extraction sites where approved as part of the conditional use permit and constructed and operated in compliance with the SLDC and so long as the use is consistent. Such related uses may include, but are not limited to, road materials fabrication plants, asphalt hot mix plants, concrete batch plants, and the use of mobile equipment such as crushers, stackers and conveyors.~~

~~**10.19.3. Application.** In addition to the submittal requirements for a conditional use permit (§ 4.9.6.), including any studies, reports and assessments required by Table 6-1, an application for approval of a sand and gravel extraction facility shall include the following:~~

~~**10.19.3.1. Operations Plan.** An operations plan for the facility consisting of the following:~~

~~**1.** Maps, plans, graphics, descriptions, timetables, and reports which correlate and specify:~~

~~**a.** a detailed description of the method(s) or technique(s) to be employed in each stage of the operation where any surface disturbance will occur;~~

~~**b.** the size and location of area(s) to be disturbed, which includes excavations, overburden spoils, topsoil stockpiles, driveways and roads;~~

~~**c.** pursuant to the standards of §7.17 (Terrain Management), a description of all earthmoving activities, including backfilling of cuts and leveling or compaction of overburden;~~

~~**d.** if applicable, the location and size of all water diversions and impoundments or discharge of water used in extraction operations;~~

~~**e.** areas to be used for storage of equipment and vehicles;~~

~~**f.** location and size of any structures;~~

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~~**g.** areas designated to be reclaimed;~~

~~**h.** hours of operation and, if applicable, a description of outdoor lighting; and~~

~~**i.** fire protection plans.~~

~~**2.** A description of how construction materials will be processed on and/or removed from the site.~~

~~**3.** A description of how each phase of exploration or extraction correlates to the reclamation plan.~~

~~**4.** A timetable for each phase of operations and reclamation.~~

~~**5.** A description of the steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards.~~

~~**6.** A drainage control plan showing methods which will be utilized to avoid erosion on and adjacent to the site.~~

~~**7.** A description of all hazardous materials to be used and transported in connection with the activity and a description of steps that will be taken to insure that the use of such materials will have no adverse impact on the residents or environment of Santa Fe County.~~

~~**8.** A description of the projected noise to be generated and an explanation of how the operator will comply with the requirements of §7.21.4 (Noise).~~

~~**9.** A statement concerning compliance, as applicable, with regulations of the Federal Aviation Administration (FAA).~~

~~**10.19.3.2. Reclamation Plan.** A plan that provides for reclamation of the site. For extraction activities involving open pit operations, the plan shall account for recontouring and reseeding or revegetation of the site. The reclamation shall include reseeding or revegetating of all disturbed areas of the site, excluding roads, with reasonable allowances to recognize areas that cannot be practically seeded or revegetated because of slope, rock conditions or other limitation factors. The applicant shall be responsible for maintaining revegetation for two growing seasons, in an attempt to provide roughly comparable vegetation to that which existed in the area prior to extraction, through a single reasonable effort.~~

~~**10.19.3.3. Other Permits.** A listing of all permits required to be obtained to engage in the extraction activities on the site. Copies of the submittals or other data presented in support of obtaining required permits shall be provided to the Administrator upon request and the listing of the regulatory agency under which the permit is required. Upon obtaining the required permits, a copy of each shall be submitted to the Administrator.~~

~~**10.19.4. Water for Site Control.** The applicant shall possess a suitable water supply to meet the requirements of the New Mexico Environment Department pursuant to the applicant's air quality permit and for general dust control. As necessary, a WSAR may be required by the Administrator as described on Table 6-1 to establish the necessary water supply.~~

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~~**10.19.5. Approval Standards.** In addition to meeting those standards required for approval of a conditional use permit under § 14.9.6, the applicant shall demonstrate each of the following with respect to the proposed sand and gravel extraction facility:~~

~~**10.19.5.1.** The existence of significant mineral resources at the site;~~

~~**10.19.5.2.** That the proposed use is reasonably compatible with other uses in the area, including but not limited to traditional patterns of land use, recreational uses, and present or planned population centers;~~

~~**10.19.5.3.** That the site is suited for sand and gravel extraction, in comparison with other reasonably available areas of the County;~~

~~**10.19.5.4.** That the operations plan and reclamation plan are feasible and adequately protective and the application can be conditioned upon carrying out both plans; and~~

~~**10.19.5.5.** A history of significant mining activity in the area, if mining has been conducted in the area.~~

## 10.20. SEXUALLY ORIENTED BUSINESSES.

**10.20.1. Purpose and Intent.** It is the purpose of this section to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the negative secondary effects of sexually oriented businesses within the County, which include increased crime, neighborhood blight and reduced property values. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the U.S. Constitution or Section 17 of the New Mexico Bill of Rights, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material. The provisions of this section are intended to address the following issues:

**10.20.1.1.** Sexually oriented businesses require special supervision from the public safety agencies of the County in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the County;

**10.20.1.2.** The concern over sexually transmitted diseases is a legitimate health concern of the County which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens;

**10.20.1.3.** Licensing is a legitimate and reasonable means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation;

**10.20.1.4.** There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a negative effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, potential for excessive noise, disorderly conduct, and the downgrading of property values;

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**10.20.1.5.** It is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to blight and downgrading the quality of life in the adjacent area;

**10.20.1.6.** It is desirable to minimize and control these adverse effectsand thereby protect the health, safety, and welfare of the citizenry; preserve the quality of life; preserve property values and the character of surrounding neighborhoods and deter the creation of blight;

**10.20.1.7.** It is not the intent of this section to suppress any speech activities protected by the First Amendment of the U.S. Constitution or Section 17 of the State Bill of Rights, but to enact content neutral requirements in a Codewhich address the negativesecondary effects of sexually oriented businesses; and

**10.20.1.8.** Evidence exists concerning the adverse secondary effects of adult uses on the community presented to the Board, which relies on the authority established in cases such as *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 427 U.S. 50 (1976), *FW/PBS, 1nc. v. City of Dallas*, 493 U.S. 215 (1990), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S. Ct. 1382 (2000), *City of Littleton v. Z.J. Gifts D-4, LLC*, 541 U.S. 774 (2004), *Fantasyland, Video Inc., v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007), SOB, Inc. v. County of Benton, 317 F.3d 856 (8th Cir. 2003), *Zibtluda LLC. v. Gwinnett County Georgia Bd. of Commissioners*, 411 F.3d 1278 (11th Cir. 2005), *Abilene Retail #30, Inc. v. Bd. of Comm'rs of Dickinson County*, 492 F.3d 1164 (10th cir. 2007), and further relies on studies commissioned by other communities including, but not limited to, Phoenix, Arizona (1979 & 1995-1998); Minneapolis, Minnesota (1980); St. Cloud, Minnesota (1994); Houston, Texas (1983 & 1997); Indianapolis, Indiana (1984), Amarillo, Texas (1977); Garden Grove, California (2001); Los Angeles, California (1977); Whittier, California (1978); Spokane, Washington (2001); Oklahoma County, Oklahoma (1986); Greensboro, North Carolina (2003); Beaumont, Texas (194); Dallas, Texas (1997); Newport News Virginia (1996); Bellevue, Washington (1998); Seattle, Washington (1989); New York, New York (1994); and St. Croix County, Wisconsin (1993); and also the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota). This evidence justifies the limited and targeted regulation described in succeeding paragraphs.

**10.20.2. Classification.** Sexually oriented businesses consist of one or more of the following:

**10.20.2.1.** Adult arcades;

**10.20.2.2.** Adult bookstores, adult novelty stores, or adult video stores;

**10.20.2.3.** Adult cabarets;

**10.20.2.4.** Adult motels;

**10.20.2.5.** Adult motion picture theaters;

**10.20.2.6.** Adult theaters; and

**10.20.2.7.** Semi-nude model studios.

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**10.20.3. License Required.**

**10.20.3.1.** It is unlawful for any person to operate a sexually oriented business without holding a valid sexually oriented business license issued by the County pursuant to this section.

**10.20.3.2.** An application for a license shall be made on a form provided by the County. If made by an individual, it shall be signed by that person; if made by a corporation, it shall be signed by the president or vice president; if made by a general or limited partnership, it shall be signed by a general partner; if made by a limited liability company, it shall be signed by the manager.

**10.20.3.3.** The application shall be signed and notarized and shall include all information required in this section, *including the following:*

**1.** The full true name and any other names used in the preceding five (5) years, current street address, and date of birth;

**2.** The current business address of the applicant, which shall be a street address and not a post office or other commercial mailbox address;

**3.** An original set of fingerprints of the signing applicant for conducting a criminal history background checks pursuant to this section;

**4.** The name, business location, , business mailing address and phone number of the proposed sexually oriented business;

**5.** Written proof of age of the applicant, in the form of a copy of a birth certificate, a valid picture driver's license, which will be photocopied by the Administrator, a valid passport or other picture identification issued by a governmental agency which will be photocopied by the Administrator;

**6.** A disclosure and listing of all prior andlicenses or permits held by the applicant relating to a sexually oriented business, including their effective dates, the name and address of the government entity that issued them, and whether any such license or permit has been denied, revoked or suspended, or their business determined to be a public nuisance, and if so, the reason or reasons given.

**7.** If the application for a sexually oriented business license is by a domestic or foreign business entity, the name and address of the registeredagent or other agent, if any, authorized to receive service of process.

**10.20.3.4.** Information provided pursuant to licensing shall be supplemented in writing by certified mail, return receipt requested, or in-hand delivery to the Administrator within (30) thirty workingdays of any change of circumstances thatwould render the information previouslysubmitted false, incomplete or misleading. This shall be a continuing duty and failure to timely supplement the information provided shall be grounds for suspension or revocation of this license. An applicant whose fingerprint-based background check discloses any history of Specified Criminal Activity listed in the definition section of Appendix A, shall be responsible for providing documentary proof to the Administrator of the disposition of those cases disclosed.

**10.20.3.5.** If an omission or error is discovered by the Administrator or the applicant

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has improperly completed the application, the application will be returned to the applicant who shall be afforded (21) twenty-one calendar days to correct it. During the period in which the applicant is given to correct the application, the time period for granting or denying the license shall be stayed until a corrected application is submitted. No additional fee will imposed upon the applicant.

**10.20.3.6.** The application for a sexually oriented business license shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

**10.20.3.7.** A person who possesses a valid business license from the County is not exempt from the requirement of obtaining a sexually oriented business license if seeking to operate such a business.

**10.20.3.8**. If the applicant discloses the holding, suspension or revocation of a sexually oriented business license from a government entity other than the County, the Administrator shall have the right to request true and complete copies of any such licenses or rejections thereto together with any related documents. Applicant shall provide copies of the requested document within (10) ten calendar days of the request.

**10.20.4. Approval or Denial of a License.**

**10.20.4.1.** Within twenty (20) business days of the filing of a completed application for a sexually oriented business license, the Administrator shall issue the license to the applicant unless one or more of the following is determined to be true:

**1.** The applicant is less than eighteen (18) years of age.

**2.** The applicant is delinquent in the payment to the County of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.

**3.** The applicant has failed to provide any of the information or documents required by this section for the issuance of the license.

**4.** The applicant has been convicted of a Specified Criminal Activity. The fact that an appeal is pending on a conviction for a Specified Criminal Activity at the time of application shall not negate the effect of that conviction in disqualifying the applicant. A person whose conviction for Specified Criminal Activity has been reversed on appeal by the time of application, or while the application is being considered is brought to the attention of the Administrator, shall not be considered to be someone with a conviction. A conviction shall include a finding of guilty after a trial, a guilty plea, a plea of nolo contendere, or any disposition entered by a trial court recognized as a conviction by the laws and appellate court decisions of New Mexico.

**5.** The required license application fee has not been paid.

**6.** The applicant has made a false or misleading statement on the application or provided false or misleading information or documentation in connection with the application.

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**7.** The proposed sexually oriented business is in a zoning district other than a district in which sexually oriented businesses are allowed to operate, or is not in compliance with the location restrictions established for sexually oriented businesses in the appropriate zoning district(s).

**8.** The applicant has had a sexually oriented business license revoked or suspended anywhere in the country within one year prior to the application, or has had a sexually oriented business license determined to be a public nuisance under any state law or county or municipal ordinance within one year prior to the application.

**10.20.4.2.** An applicant that is ineligible for a license due to a §10.20.4.1.4 conviction may qualify for a sexually oriented business license only after five (5) years have elapsed since the date of the conviction or since the date of completion of the terms and conditions of parole or probation, whichever is later. An applicant with a conviction or claiming completion of the terms and conditions of parole or probation shall provide documentary proof of same to the Administrator as part of his/her application.

**10.20.4.3.** The license, if granted, shall state on its face the name of the person or business entity to whom it is granted, the number of the license issued to that applicant, the expiration date, and that the license is for a sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

**10.20.5. Fees.** The initial application fee and annual renewal fee for a sexually oriented business license shall be set by the Board and due at the time of filing of the initial or renewal application. Either fee is non-refundable.

**10.20.6. Expiration of License.**

**10.20.6.1.** Each license shall expire one (1) year from the date of issuance and may be renewed by paying the required renewal fee and filing a renewal application not less than forty-five (45) calendar days before the expiration date, and when made less than forty-five (45) calendar days before the expiration date, the expiration of the license will not be affected so long as the application is filed prior to its expiration. Because a sexually oriented business shall be prohibited from operating if its license expires while awaiting a determination on it renewal application, early filing is encouraged. The Administrator shall approve, approve with conditions or deny renewal of the license within twenty (20) business days.

**10.20.6.2.** When the County denies renewal of a license, the applicant shall not be permitted to reapply for one (1) year from the date of denial. If, subsequent to the denial, the Administrator finds that the basis for denial of the license has been corrected, abated or was minor, the applicant shall be granted a renewal license. Any denial of renewal of a license is, in any event, appealable pursuant to § 10.20.12 herein.

**10.20.7. Manager and Employee Requirements.**

**10.20.7.1.** Unless operated by the licensee who shall be at least 21 years of age, a sexually oriented business shall be operated by one or more registered managers who is at least 21 years of age and who shall be on the premises of the business at all times when

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open to the public. At all times while on duty on the premises of the business, a manager shall wear a badge indicating his/her status as a manager. No person other than a licensee of at least 21 years of age shall operate a sexually oriented business without first submitting a completed registration form with the Administrator. The registration form shall require the applicant to provide his/her legal name including any aliases, home address (other than a post office box), telephone number, date of birth after showing proof of age with a government-issued picture identification card, and signed certification that he/she has not been convicted of a Specified Criminal Activity listed in Appendix A within a five (5) year period prior to the date of filing the registration.

**10.20.7.2.** A manager of a sexually oriented business shall possess a copy of his/her registration at all times while on duty. While it need not be on his/her person at all times, it shall be physically available on the premises if requested during inspections.

**10.20.7.3.** The Administrator can deny or revoke a manager registration by written letter if an applicant for registration fails or refuses to provide a completed registration form, refuses to sign the form, provides false or misleading information on the form, discloses a conviction for a Specified Criminal Activity, or is convicted of a Specified Criminal Activity after issuance of the manager registration.

**10.20.7.4.** Licensee shall not employ or permit the employment of any person under the age of 18 at the licensed establishment; nor shall any person convicted of a Specified Criminal Activity listed in Appendix A within a five (5) year period prior to the date of hiring be employed. It shall be the responsibility of the licensee to verify the age and criminal history of each potential and active employee, including any performer on the premises.

**10.20.8. Transfer/Change and Display of License.**

**10.20.8.1.** A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

**10.20.8.2.** Licensee shall report to the Administrator within ten (10) business days any formal change in name of the sexually oriented business or any change in name of the business entity. Once reported, an amended license will be issued which issuance shall not change the duration of the license.

**10.20.8.3.** A sexually oriented business license shall be prominently displayed in a common area on the premises and visible to the public at all times it is open to the public.

**10.20.9. Location of Sexually Oriented Businesses.** No sexually oriented business shall be located:

**10.20.9.1.** Within one thousand (1,000) feet of a church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities;

**10.20.9.2.** Within one thousand (1,000) feet of a public or private educational facility including, but not limited to, child day care facilities, preschools, state-approved pre-kindergarten facility, kindergartens, elementary schools, public or private schools of any grade or specialty, vocational schools, charter schools, continuation schools, colleges and universities; school includes school grounds, but does not include facilities used primarily for another purpose and only

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incidentally as a school;

**10.20.9.3.** Within one thousand (1,000) feet of a boundary of a residential zoning district;

**10.20.9.4.** Within one thousand (1,000) feet of a public park or recreational area which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, or other similar public land within the County which is under the control operation, or management of the County park and recreation authorities;

**10.20.9.5.** Within one thousand (1,000) feet of the property line of a residential use lot;

**10.20.9.6.** Within one thousand (1,000) feet of an entertainment business which is oriented primarily towards children or family entertainment; or

**10.20.9.7.** Within one thousand (1,000) feet of any business selling alcoholic beverages.

**10.20.9.8.** Within one hundred (100) feet of another sexually oriented business.

**10.20.10. Performance and Operational Standards.** The following performance and operational standards shall apply to those who operate, are performers at or employees of a sexually oriented business:

**10.20.10.1.** No sexually oriented business shall open for business or permit patrons on its premises from one o'clock a.m. (1:00 a.m.) until eight o'clock a.m. (8:00 a.m.) Mondays through Saturdays, and from one o'clock a.m. (1:00 a.m.) until twelve o'clock noon (12:00 p.m.) on Sundays.

**10.20.10.2.** No employee or performer mingling with patrons or serving food or beverages shall be unclothed or in such attire, costume or clothing as to expose to view the male or female genitals, pubic hair, anus, or female breast with less than a fully opaque covering of any part of the nipple.

**10.20.10.3.** No employee or performer shall encourage or knowingly permit any person while inside or outside of the premises of a sexually oriented business touch, caress or fondle the breasts, buttocks, anus or genitals of any patron or employee.

**10.20.10.4.** No employee or performer shall wear or use any device or clothing that simulates a nude female breast, male or female genitals, an anus or pubic hair.

**10.20.10.5.** No nude or semi-nude performer shall perform, simulate or use any objects to simulate or perform any obscene acts such as acts of sexual intercourse, masturbation, oral sex or sodomy.

**10.20.10.6.** A list of food, beverages and their prices shall be conspicuously displayed at least once in every area of the premises where they are permitted by the business to be consumed.

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**10.20.10.7.** No alcoholic beverages may be sold or consumed on the premises of a sexually oriented business.

**10.20.10.8**. Any tips for performers shall be placed by a patron in a tip box and no tip may be handed directly to a performer or inserted into the clothing of a performer.

**10.20.10.9.** A sexually oriented business that permits tipping shall use a tip box or tip boxes and shall have a sign conspicuously placed in at least two common areas inside of the premises that provides in at least one inch (1") high capital letters: SANTA FE COUNTY ORDINANCE REQUIRES THAT ANY TIPS MUST BE PLACED IN A TIP BOX AND NOT HANDED DIRECTLY TO A PERFORMER OR STUCK IN THE PERFORMER'S CLOTHING. ANY PHYSICAL CONTACT BETWEEN A CUSTOMER AND A PERFORMER IS PROHIBITED.

**10.20.10.10.** No employee or performer who dances or provides any other form of expressive performance for view by patrons shall be totally nude, semi-nude or clothed in such attire, costume or clothing so as to expose any portion of the male or female genitals, pubic hair, the anus, or the female nipple. All dances or performances for patrons shall take place only on a stage at least eighteen inches (18") above the immediate floor level.

**10.20.10.11.** The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain visual surveillance or reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which a patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection shall be by direct line of sight from the manager's station. It shall be the duty of the licensee to ensure that the required view area remains unobstructed at all times by any doors, curtains, partitions, walls, merchandise, display racks, or other materials.

**10.20.10.12.** No viewing room or booth may be occupied by more than one (1) person at any time.

**10.20.10.13.** The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than two (2) foot-candles as measured at the floor level, and except for an adult motion picture theater, illumination shall be turned on and left on at all times that any patron is present.

**10.20.10.14.** To prevent patrons, performers and employees from having physical contact, no licensee shall allow openings of any kind to exist or be made in the walls between viewing rooms or booths. The licensee shall at least daily inspect the walls or partitions between viewing booths and promptly correct any openings or holes.

**10.20.10.15.** The licensee shall cause all wall surfaces, floor coverings and viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

**10.20.10.16.** No adult entertainment occurring inside the premises of a sexually oriented business shall be visible at any time from outside of the premises.

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**10.20.11. Suspension or Revocation of License.** The Administrator may suspend a sexually oriented business license for a definite period not to exceed twelve (12) months, or revoke that license permanently, if he/she determines that:

**10.20.11.1.** Licensee or an employee of a licensee has violated or is not in compliance with any portion of § 10.20.

**10.20.11.2.** Licensee or an employee of a licensee has permitted or been unable to prevent repeated instances of disorderly conduct anywhere on the premises of the Sexually Oriented Business which tend to disturb the peace.

**10.20.11.3.** Licensee or an employee of a licensee has offered for sale, permitted the offering for sale, or sold or permitted the sale or use, of any liquor or controlled substances anywhere on the premises of the sexually oriented business.

**10.20.11.4.** Neither licensee nor a registered manager is physically present at the licensed premises at all times the sexually oriented business is open to the public.

**10.20.11.5.** Adult entertainment permitted by the license was offered at the licensed establishment during hours prohibited by § 10.20.10.1 of the Code.

**10.20.11.6.** The licensee, manager or an employee has permitted or failed to prevent patrons from engaging in public displays of indecency in violation of state law or §10.20.13 of this Code; or has permitted or failed to prevent patrons or employees from engaging in acts of prostitution or negotiations for acts of prostitution whether inside or outside of the licensed establishment.

**10.20.11.7.** The licensee made a false or misleading statement or provided false or misleading information in connection with licensee's application for an initial or renewed license.

**10.20.11.8.** The licensee or manager is discovered to be under the age of 21, an employee is discovered to be under the age of 18, or a licensee or manager hired or permitted someone under the age of 18 to work or perform at the licensed premises.

**10.20.11.9.** The business entity of a licensee is no longer in good standing or authorized to do business in this state.

**10.20.11.10.** The licensee is delinquent in the payment to the County or state of any taxes or tax penalties.

**10.20.11.11.** The licensee or manager has knowingly permitted or failed to prevent any act of sexual intercourse, sodomy, oral sex or masturbation to occur whether inside or outside of the licensed establishment.

**10.20.11.12.** The licensee, manager or an employee is convicted of a Specified Criminal Act. The fact that a conviction is being appealed shall have no effect on the suspension or revocation of the license. However, if such conviction has been reversed on appeal by the time of the application or while the application is being considered which is brought to the attention of the Administrator or Hearing Officer, the license will be reinstated, the appeal dismissed, and both sides will be responsible for only their own legal fees including any costs. As used herein, "conviction" shall include a finding of guilty after a

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trial, a guilty plea, a plea of nolo contendere, or any disposition entered by a trial court recognized as a conviction by the laws and appellate court decisions of New Mexico.

**10.20.11.13.** The licensee, manager or an employee refused to allow an inspection of the sexually oriented business premises as authorized by this Code.

**10.20.12. Appeal; Hearing; License/Application Denial, Suspension, Revocation.**

**10.20.12.1.** If the Administrator determines that facts exist for denial, suspension, revocation or non-renewal of a license under this Code, the Administrator shall notify the applicant/licensee in writing of the intent to deny, suspend or revoke the license, including the grounds therefore, by personal delivery, or by certified mail. Such notice of intent shall be issued within twenty (20) business days of the Administrator's receipt of a completed application for an initial or renewed license or within one (1) year of discovery of the grounds of revocation or suspension. The notification shall be directed to the most recent business address appearing on the application.

**10.20.12.2.** Within ten (10) working days of receipt of such notice, the applicant/licensee may file a written appeal with the Administrator on the denial, suspension, revocation or non-renewal of the application/license; applicant/licensee may include a statement of reasons why the application/license should not be denied, suspended, revoked or non-renewed. Within five (5) working days of receipt of applicant's/licensee's written appeal, the Administrator or a Hearing Officer shall notify the appealing party in writing of the place, date and time of hearing, which shall be held within thirty (30) calendar days. This and all other timelines in §10.20.12 can be waived if agreed to by the appellant and the Administrator in writing. Prior to the hearing, both sides shall provide copies of all documents they relied on and intend to introduce as evidence at the hearing as well as a list of witnesses they intend to call during the hearing. Such evidence and witness list shall be shared by the parties no later than seven (7) calendar days before the hearing. No other discovery shall be permitted. Upon request, the Hearing Officer may consider appropriate sanctions if either side fails or refuses to timely provide the other side with copies of documents or a witness list as required by this section.

**10.20.12.3.** At the hearing, both the appellant and the Administrator shall have the right to present documentary evidence and witnesses. The Administrator shall proceed first and has the burden of proof which shall be by a preponderance of the evidence. Both sides may cross examine the witnesses called by the other side. After the Administrator has rested and appellant has provided its defense and rested, both sides shall be given an opportunity to present a closing argument with the Administrator going first, followed by the appellant, and a rebuttal permitted by the Administrator.

**10.20.12.4.** The technical rules of evidence shall not apply, but in ruling on the admissibility of evidence, the Hearing Officer may require reasonable substantiation of statements or records tendered where the accuracy or truth of which is in reasonable doubt.

**10.20.12.5.** Irrelevant, immaterial, unreliable, unduly repetitious or cumulative evidence, and evidence protected by the rules of privilege (such as attorney-client, physician-patient or special privilege) shall be excluded by the Hearing Officer upon timely objection.

**10.20.12.6.** Witnesses shall be sworn and the hearing recorded, and either party may, at their own expense, make arrangements to have the hearing transcribed by a certified court reporter.

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**10.20.12.7.** The Hearing Officer shall issue a written recommended decision to the parties and the Board of County Commissioners within ten (10) business days of the hearing on the issues raised by the appeal. The recommended decision shall include written findings of fact, conclusions of law and a proposed decision. The Administrator and applicant/licensee can settle a matter at any time prior to the Hearing Officer's issuance of a recommended decision. The Administrator shall cause the recommended decision to be placed on the agenda of the Board at its next available meeting so long as its placement complies with the notice requirements of the Open Meetings Act.

**10.20.12.8.** The Board shall issue a final decision that accepts or rejects the findings, conclusions or recommended decision of the Hearing Officer. If the Board rejects or deviates from the recommended decision of the Hearing Officer, its final decision shall be supported by a preponderance of the evidence after conducting an independent review of the recording or transcript of the hearing together with all documents introduced. No further testimony or evidence shall be presented to the Board by anyone during this proceeding. Any final decision by the Board shall include a statement advising the applicant/licensee of the right to appeal a final decision to a court of competent jurisdiction. If the Board determines that no grounds exist for denial, suspension or revocation of a license/application, then the Administrator shall promptly issue the initial or renewed license as the case may be.

**10.20.12.9.** Upon a licensee's/applicant's filing of any court action to appeal, challenge, restrain, or otherwise enjoin the County's enforcement of the denial, suspension, or revocation, the Administrator shall immediately issue the aggrieved party a Provisional License. The Provisional License shall allow the aggrieved party to continue operation of the sexually oriented business and will expire upon the court's entry of a judgment on the aggrieved party's court action.

**10.20.12.10.** Only a final written determination of the Administrator to deny, suspend, revoke or non-renew a license or application may be appealed for hearing before a Hearing Officer.

**10.20.13. Criminal Penalties Related to Nudity and the Presence of Minors.** It shall be a misdemeanor subject to imposition of a fine of up to three hundred dollars ($300.00) against a person for each separate violation of the following:

**10.20.13.1.** Knowingly and intentionally appearing in a state of nudity or engaging in Specified Sexual Activities at a sexually oriented business; or for an employee or licensee to knowingly and intentionally permitting such conduct from a patron.

**10.20.13.2.** Knowingly and intentionally appearing in a semi-nude condition in a sexually oriented business, unless the person is an employee who, while semi-nude, shall be at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.

**10.20.13.3.** For an employee, while semi-nude in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity directly to any employee, while that employee is semi-nude in a sexually oriented business.

**10.20.13.4.** For an employee on the premises of a sexually oriented business, while semi-nude, to knowingly and intentionally touching a customer or the clothing of a customer.

**10.20.13.5.** Knowingly and intentionally allowing a person under the age of eighteen

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(18) years on the premises of a sexually oriented business whether as an employee or a patron.

**10.20.14. Exemptions.** It is a defense to prosecution under §10.20.13 that a person appearing in a state of nudity did so in a modeling class operated:

**10.20.14.1.** By a proprietary school licensed by the State of New Mexico Higher Education Department ("HED"); or

**10.20.14.2.** By any post-secondary educational institution or regionally accredited college or university within the oversight of, or requiring registration by, the HED.

**10.21 MULTI-FAMILY HOUSING.**

**10.21.1 Parking.** Multi-family development shall provide the following minimum off street parking spaces:

**10.21.1.1.** One (1) space for units with one bedroom or efficiency apartments,

**10.21.1.2.** One and a half (1½) spaces for units with two bedrooms,

**10.21.1.3.** Two (2) spaces for units with 3 or more bedrooms.

**10.21.2 Units.** There shall be no more than 12 units per building.

**10.21.3 Egress.** Units shall have a means of egress separate from the commercial use. No access to the units shall be through a commercial establishment.

**10.22. LAND USE RESTRICTIONS ON MEDICAL USE OF CANNABIS.**

**10.22.1.** The sale, cultivation, licensing, certification and regulation of the medical use of cannabis is governed by the Lynn and Erin Compassionate Use Act ("Act") [NMSA 1978, §§ 26-2B-1 to 26-2B-7].

**10.22.2.** The Act is implemented by the New Mexico Department of Health through its adoption of three (3) rules codified in the New Mexico Administrative Code that govern all aspects of the facility certification and placement, regulation, licensing, authorized sales and production of medical cannabis and its lawful uses.

**10.22.3.** Any restrictions governing the sale and distribution of medical cannabis shall be governed by the Use Matrix attached as Appendix B to this Code.

**10.23. AUTOMOTIVE PAINT AND BODY BUSINESS.**

**10.23.1.** Applicability. This section shall apply to all automotive paint and body businesses.

**10.23.2.** Standards. Automotive paint and body businesses shall meet design standards within this SLDC in addition to the following standards:

**10.23.2.1.** All automotive paint and body work shall be conducted within an insulated building with appropriate air filters to minimize both noise and odors;

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**10.23.2.2.** Stored vehicles shall be located behind a six-foot high solid wall or fence;

**10.23.2.3.** Structures related to a paint and body business shall be set back a minimum of 75 feet from residential property boundaries.

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# Chapter 11 – Developments of Countywide Impact (DCIs)

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# CHAPTER ELEVEN – DEVELOPMENTS OF COUNTYWIDE IMPACT (DCIs)

**11.1. Purpose**. Developments of Countywide Impact (DCIs) are those that have potential for far-reaching effects on the community. DCIs are developments that would place major demands on public facilities, the County's capital improvement plan and budget, and/or have the potential to affect the environment and public health, safety, and welfare beyond the impacts on immediately neighboring properties. DCIs have the potential to create serious adverse noise, light, odor and vibration; explosive hazards; traffic congestion; and burdens on County emergency response services. Therefore, special regulation of DCIs is necessary:

**11.1.1.** to protect the health, safety and welfare of the citizens, residents, and businesses of the County from the potentially harmful or hazardous impacts of DCIs;

**11.1.2.** to ensure short and long-term compatibility (both on-site and off-site) of DCIs and the County at large;

**11.1.3.** to preserve the quality ~~and sustainability~~ of life, the economy, infrastructure, environment, natural and cultural resources, and natural landscapes; ~~and~~

**11.1.4.** ~~to protect the degradation of air, surface water and groundwater, soils, environmentally sensitive lands and visual and scenic qualities~~ to promote sustainability by protecting against the degradation of air, surface water, groundwater, and soils; and~~.~~

**11.1.5.** to protect environmentally sensitive lands and visual and scenic qualities.

**11.2. Scope.**

**11.2.1. Scope.** This Ordinance shall apply to all applications for any of the DCIs listed in Section 2 herein, including any applications that are pending on the effective date of this Ordinance that have not been approved. However, the Ordinance shall not apply to development permits with vested rights that were issued as of the effective date of this Ordinance. To have vested rights, generally:

**11.2.2.1.** there must be prior approval by the County for use of buildings or land for the DCI, and

**11.2.3.2.** there must be a substantial change in position in reliance on the approval.

**11.~~2~~3. Designation.** ~~On account of~~Due to their potential impact on the County as a whole, the following activities are ~~deemed~~ designated DCIs subject to the requirements of this chapter:

**11.~~2~~3.1.** landfills;~~oil and gas drilling and production;~~

**11.~~2~~3.2.** junkyards~~mining and resource extraction~~;

~~**11.2.3.** substantial land alteration;~~

**11.~~2~~3.~~4~~3.** sand and gravel extraction; ~~landfills;~~

**11.~~2~~3.~~5~~4.** ~~junkyards;~~ large-scale feedlots and factory farms;

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**11.~~2~~3.~~6~~5.** oil and gas drilling and production; and ~~large scale feedlots and factory farms; and~~

**11.~~2~~3.~~7~~6 .** mining and resource extraction~~sand and gravel extraction that is of a scope and scale, as determined by subsequent amendment to the SLDC, that it merits regulation as a DCI pursuant to subsection 11.3.6. of the SLDC~~.

## 11.4. Procedure and Submittals.

**11.4.1. No DCI is permitted by right in the County.** Operation of a DCI shall require the establishment of a DCI Overlay Zoning District, issuance of a DCI Conditional Use Permit and issuance of grading and construction permits.

**11.4.2. Applicability of the Sustainable Land Development Code (SLDC).** Although not currently effective, any reference in this Ordinance to the SLDC, Ordinance No. 2013-6, shall neither indicate nor suggest the implementation of the SLDC, but incorporates by reference into this Ordinance the specific language or provision being referenced.

**11.4.3. Application Procedures.** An application for a DCI Overlay Zoning District (DCI Overlay) or for a DCI Conditional Use Permit shall follow the procedures set forth in Chapter 4 of the SLDC for Overlay Zones and Conditional Use Permits.

**11.4.4. Application for a DCI Overlay Zoning District.** An applicant who submits an application for approval of a DCI Overlay Zoning District shall submit a concept plan that includes:

**11.4.4.1.** An accurate map of the project area including its relationship to surrounding areas, existing topography and key features.

**11.4.4.2.** A detailed description of the proposed DCI activities on the entirety of the owner or applicant's property in the same ownership:

**1.** the planning objectives and the character of the development to be achieved through the overlay, and the approximate phases in which the DCI activity will occur;

**2.** the approximate location of all neighboring development areas, subdivisions, residential dwellings, neighborhoods, traditional communities and community centers, and other non-residential facilities and structures within five (5) miles of the concept plan site perimeter;

**3.** the approximate location, arrangement, size, height, floor area ratio of any existing and proposed buildings, structures and parking facilities and facilities and activities related to the intended use;

**4.** the proposed traffic circulation plan, including number of daily and peak hour trips of any and all vehicles including heavy equipment to and from the site and the proposed traffic routes to the nearest intersection with an arterial road or highway;

**5.** the location of all fire, police, and emergency response service facilities and all roads shown on the capital improvement plan; floodways, floodplains, wetlands or other natural resource areas surrounding the applicant's property; location of historic, cultural and archeological sites and artifacts; steep slopes

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between 15% and 30% and steep slopes greater than 30%, general wildlife vegetation habitats and habitat corridors within five (5) miles of the concept plan site perimeter;

**6.** a statement explaining how the proposed overlay complies with the vision, goals, objectives, policies and strategies of the County's Sustainable Growth Management Plan (SGMP) and any Area, District and Community Plan covering the property;

**7.** a statement or visual presentation of how the overlay will relate to and be compatible with adjacent and neighboring areas, within the five (5) mile radius of the project site perimeter; and

**8.** all application requirements set out in this Ordinance.

**11.4.4.3.** A detailed site plan depicting boundaries, dimensions, acreage, existing and proposed structures, storage, stockpiling, equipment, lighting, streets and easements, setbacks and separations and preservation areas.

**11.4.4.4.** All Studies, Reports and Assessments (SRAs) required in Chapter 6 of the SLDC, which shall be prepared and submitted by the applicant. The County may hire outside consultants to review the SRAs at the expense of the applicant (see Appendix A).

**11.4.4.5. Emergency Response and Preparedness Plan.**

**1.** An application for a DCI Overlay Zoning District shall include an emergency preparedness and response plan ("ERP Plan"). The ERP Plan shall include a provision for the applicant to reimburse the appropriate emergency response service providers for costs incurred in connection with an emergency. This plan shall be filed with the County at the time of application for the DCI Overlay District and shall be updated on annual basis or as conditions change. The ERP Plan shall be coordinated with and approved by the emergency management officer prior to beginning field operations.

**2.** The ERP Plan shall consist of the following information, at a minimum:

**a.** a cash, certified or bank check, letter of credit, or cash deposit, to cover all of the County's expenses in reviewing the ERP, engaging consultants, and for a Hearing Officer to conduct the first public hearing on the ERP. The County will provide an estimate of the cost of conducting the study, which shall provide the basis for the initial deposit. The applicant shall make additional deposits if the initial deposit is inadequate to reimburse the County for the costs of the study, and the County shall refund any unexpended funds on deposit after the study is completed;

**3.** the name, address and phone number, including a 24 hour emergency number of at least two persons responsible for emergency field operations;

**4.** a printed map with latitude/longitude UTM graticules along the edges. These maps shall be produced and available in GIS format based on the standard Santa Fe County GIs spatial reference. Additionally, all digital data shall be provided to the County for use in its GIS databases and mapping in this format;

**5.** a written response plan for the potential emergencies that may be associated

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with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hazardous material vehicle spills or vehicle accidents; failure of berms, dams or ponds used by DCI operator; and

**6.** a fire prevention, response, and health and safety plan.

**11.4.4.6. Phasing Schedule.** A detailed phasing schedule including timing of each phase, boundaries and description of each proposed phase.

**11.4.4.7.** Such other information as the Administrator shall require, including any additional information necessary to determine compliance with the standards for the approval of the DCI Overlay Zoning District.

**11.4.4.8.** At the time of application , the applicant shall submit all information required by the County necessary to carry out the above-referenced SRAs. In addition to the SRAs to be conducted by the County, the applicant and any other interested party may prepare and furnish to the County its own SRAs, or parts thereof.

**11.4.4.9.** Prior to the submission of any application for a DCI Overlay Zoning District, the applicant shall attend a pre-application meeting with all residents, owners/lessees of non-residential structures, within one mile of the perimeter of the project area and with all County groups, Registered Organizations and Community Organizations that have previously registered for notification of applications for DCIs or Overlay Districts in accordance with Sections 2.2.2, 2.2.3 and 4.4.4 of the SLDC. The applicant shall furnish an address list for the one-mile area to the Administrator and shall send out notices to all affected parties at least fifteen business days prior to the meeting. In addition, the applicant shall publish notice of the meeting in a newspaper of general circulation at least fifteen days prior to the meeting. Such meeting shall be conducted at the offices of the County, or within a community close to the location of the DCI and shall be presided over by a designated County Hearing Officer. The proceedings shall be designed to resolve, to the extent possible, issues and problems between the parties. Such meeting shall not last longer than three (3) hours without the consent of the applicant, and the Hearing Officer shall have the authority to request invitees to consolidate presentations and otherwise cooperate so that effective and cordial discussion of issues and problems takes place.

**11.4.4.10.** A report demonstrating consistency of the project with the SGMP, Area, District or Community Plans and any federal, state and local regulations.

**11.4.5. Application for a DCI Conditional Use Permit.** An application for a DCI Conditional Use Permit, which shall be for a single phase only if multiple phases are intended, shall include:

**11.4.5.1.** Final Order from the Board granting approval of the DCI Overlay Zoning District;

**11.4.5.2.** all required state and federal permits approved in conjunction with the proposed DCI;

**11.4.5.3.** a cost estimate prepared and sealed by a New Mexico professional engineer for all site improvements and reclamation, if appropriate;

**11.4.5.4.** a detailed development plan, meeting the submittal requirements of Article V, Section 7.1.2. of this Code; and

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**11.4.5.5**. all final SRAs, complying with any comments and conditions imposed through the DCI Overlay Zoning District approval.

**11.4.6. Revocation or Suspension of a DCI Conditional Use Permit.**

**11.4.6.1.** A DCI Conditional Use Permit is subject to revocation or suspension by the Land Use Administrator for the following reasons:

**1.** any conduct that constitutes a failure to comply with performance standards or conditions imposed by the Conditional Use Permit;

**2.** engaging in the activities allowed by the Conditional Use Permit that are outside the geographic boundaries of the Permit;

**3.** the revocation or suspension of any federal or state permit required as a condition of approval of the Conditional Use Permit; or

**4.** any other conduct, whether or not within the scope of the Conditional Use Permit, that damages or commits waste to private or public property.

**11.4.6.2.** The Land Use Administrator shall serve a written Notice of Violation to the Holder of the DCI Conditional Use Permit either by certified mail at the address provided in the application or by personal delivery to the Holder, either at the Holder's address or at the worksite of the Permit. The Notice of Violation shall provide the following:

**1.** a statement of the nature of the violation with reference to this Ordinance or the terms of the DCI Conditional Use Permit;

**2.** a brief description and location of the violation; and

**3.** a statement that failure to remove and correct the violation, or to cease and desist from further acts of the violation within fifteen (15) days of receipt of Notice of Violation may result in revocation or suspension of the DCI Conditional Use Permit.

**11.4.6.3.** If the Holder fails or refuses to correct or to cease and desist from further acts of the violation within the fifteen (15) days afforded or to the satisfaction of the Land Use Administrator, or if the Holder disagrees with issuance of the Notice of Violation and so informs the Land Use Administrator in writing:

**1.** the matter shall be scheduled for a hearing before a Hearing Officer, which hearing shall be noticed in accordance with Section 4.6.4 of the SLDC and shall be scheduled as soon as is practicable but in no event longer than thirty (30) days after referral;

**2.** during the hearing, it shall be the burden of the Land Use Administrator to demonstrate by a preponderance of the evidence that a violation of the DCI Conditional Use Permit has occurred as set forth in Subsection 4.6.1 above;

**3.** the Holder may then provide a defense by calling witnesses or submitting evidence disputing the evidence of the Land Use Administrator;

**4.** within five (5) working days of the hearing, the Hearing Officer shall make

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written findings of fact and rulings of law and recommend to the Board to either revoke, suspend, not revoke or not suspend the DCI Conditional Use Permit;

**5.** the matter shall be scheduled for a hearing before the Board, which hearing shall be noticed in accordance with Section 4.6.4 of the SLDC and shall be scheduled as soon as practicable, and after hearing, the Board may:

**a.** affirm the recommendation of the Hearing Officer to either revoke, suspend, not revoke or not suspend the DCI Conditional Use Permit; or

**b.** issue a decision to not revoke or not suspend the DCI Conditional Use Permit but impose additional conditions related to curing the effects of the violation and preventing future violations.

**6.** Any person aggrieved by a final decision of the Board pursuant to this section may appeal to District Court in accordance with NMSA 1978, § 39-3-1.1 (as amended) and Rule 1-074 NMRA.

**7.** If the Holder of the DCI Conditional Use Permit fails or refuses to comply with an order of the Board after its issuance, the Land Use Administrator may seek a court order enjoining further operation by the Holder and may invoke other remedies available pursuant to NMSA 1978, §§ 3.17.1, 3.18.17 and 3.21.1 (as amended).

**8.** The remedies described above are not inclusive remedies that are available to the County.

**11.5. Review Criteria.**

**11.5.1.** The Hearing Officer, County Development Review Committee and Board of County Commissioners shall consider the following criteria when making recommendations and determinations for approval, conditional approval or denial of a DCI Overlay Zoning District:

**11.5.1.1.** consistency with the SGMP and any applicable Area, District and Community Plan;

**11.5.1.2.** environmental effects and impacts identified in the Environmental Impact Report (EIR) are avoided or appropriately mitigated;

**11.5.1.3.** whether adequate public facilities either exist or can be promptly funded as identified in the Adequate Public Facilities and Services Assessment (APFA) as required by the SRAs;

**11.5.1.4.** whether improvements identified in the APFA can be provided, as set forth in the capital improvements plan, or provided by the applicant, and when such facilities will be available;

**11.5.1.5.** whether water is available for each of the phases of the proposed DCI as set forth in the Water Service Availability Report as required by the SRAs;

**11.5.1.6.** whether impacts of traffic generated as a result of the activities taking place in the proposed DCI Overlay Zoning District can be mitigated;

**11.5.1.7.** whether the proposed location is compatible with adjoining uses given the size, design and operational characteristics of the proposed DCI, and whether the DCI

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facilities can be made compatible with the surrounding area by using reasonable efforts to mitigate any public nuisance or land use effects or impacts of the DCI operation. Factors to be considered include impacts to property values, public safety; impacts on cultural, historic and archaeological resources, emergency services response, wildlife and vegetation resources, noise; impacts on roads and highways, vibration, odor, glare, fire protection, access, visual impacts; and impacts upon air and water quality and quantity, the past performance of the operator's past compliance (or lack thereof), with federal, state and local laws pertaining to the DCI; and

**11.5.1.8.** whether the proposed DCI will be detrimental to the safety, health, prosperity, order, comfort and convenience of the County pursuant to NMSA 1978 § 4-37-1.

**11.5.2.** The Hearing Officer and County Development Review Committee shall consider the following criteria when making recommendations and determinations for approval, conditional approval or denial of a DCI Conditional Use Permit:

**11.5.2.1.** consistency with the Sustainable Growth Management Plan and any applicable Area, District and Community Plan;

**11.5.2.2.** consistency with the DCI Overlay Zoning District approval; and

**11.5.2.3.** to determine the operator's compliance with federal, state and local laws pertaining to the DCI during the development of previous phases of the DCI.

**11.6. Findings.** The Board of County Commissioners hereby finds, declares and determines that this Ordinance:

**11.6.1.** promotes the health, safety, and welfare of the County, its residents, and its environment by regulating adverse public nuisance and/or land use impacts and effects resulting from DCIs;

**11.6.2.** promotes the purposes of planning and land use regulation by assuring that adequate public facilities and services as defined by this Ordinance including roads, fire, police, stormwater detention and emergency and response services will be available at the time of approval of DCI projects;

**11.6.3.** prevents the occurrence of adverse public nuisance and/or land use effects and impacts resulting from the abandonment of DCI activities within the County;

**11.6.4.** protects the County's priceless, unique, and fragile ecosystem, the preservation of which is of significant value to the citizens of the County and state;

**11.6.5.** protects the County's unique and irreplaceable historic, cultural, archaeological, and eco-tourist sites and scenic vistas, in addition to water and other natural resources;

**11.6.6.** ensures the health, safety, and welfare of the County and its residents, and protects the natural and ecological resources of Santa Fe County as follows:

**11.6.6.1.** New Mexico has an interest in strengthening protection to historic, archaeological and cultural resources by issuing new rules and new statutes, if necessary, to put into place greater, and in some cases absolute protection, for highly sensitive and significant historical, cultural and archaeological sites and landscapes;

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**11.6.6.2.** under the Wildlife Conservation Act (NMSA 17-2-37 through 17-2-46), species of wildlife indigenous to the state that may be found to be threatened or endangered by DCIs require such police power regulation over DCIs so as to maintain and, to the extent possible, enhance wildlife population within the carrying capacity of the habitat;

**11.6.6.3.** because DCIs may presently or in the future potentially cause irreparable harm to the County's water supply and pollution of water and air, may cause cancer, lung disease, and respiratory diseases, various DCIs must show documentation of community health effects, and these effects must be scrutinized, and thoroughly mitigated before DCI activities occur;

**11.6.6.4.** pursuant to the New Mexico Public Health Act, NMSA 24-1-1 (1978), the Department of Health has the authority to "investigate, control, and abate the causes of disease… sources of mortality and other conditions of public health." Environmental hazards resulting from DCI projects may potentially cause adverse health effects;

**11.6.6.5.** air, soil, and water contamination may occur during different stages of DCI operations, and such contamination could affect human health;

**11.6.6.6.** all New Mexicans have an equal right to live in a safe and healthy environment, and implementation of precautionary principles promotes this premise as well as reduces potential effects on public health resulting from exposure to environmental toxins;

**11.6.6.7.** the burden of proof of harmlessness for any proposed technological innovation must lie with the proponent of the innovation, not the general public;

**11.6.6.8.** DCIs could have a negative effect on tourism, landscapes and communities;

**11.6.6.9.** recognizes that the County of Santa Fe has supplemental authority, in addition to the authority of the state to regulate adverse public nuisance, land use and environmental impacts and effects consistent with state legislation and regulation, stemming from DCI projects in the Galisteo Basin and unincorporated areas of the County and makes no finding that the state has preempted or occupied DCI regulation;

**11.6.6.10.** acknowledges that the Galisteo Basin has been recognized by the United States Congress as a nationally significantly archaeological resource and contains within it a number of areas protected under the auspices of the Galisteo Archaeological Sites Protection Act, Public Law 108-208 (2004), and finds additionally that:

**1.** the boundary of the Galisteo Basin is depicted in the Galisteo Basin Planning Area Map attached as Exhibit A, which is the same map attached to ordinance No. 2008-19 (Oil and Gas Ordinance), and which area further contains specific sites identified in and protected by the Galisteo Basin Archaeological Sites Protection Act referenced above, including any maps referenced in that Act;

**2.** DCIs in the Galisteo Basin will have significant impact on archaeological, historical, cultural and environmental resources and sensitive areas;

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**3.** water resources in the Galisteo Basin are at risk as DCIs in the Galisteo Basin may negatively diminish or pollute local water supplies and sources of groundwater;

**4.** due to the importance of the hydrology of the Galisteo Basin, not only to the citizens of Santa Fe County but to the interstate stream system through its contributions to the Rio Grande, it is extremely important to protect the quantity and quality of the surface and ground water resources in the Galisteo Basin;

5. the Galisteo Basin is home to a variety of native plant and animal species whose arid habitats will be impacted negatively by DCIs. In addition terrestrial wildlife, aquatic and riparian species and habitats such as those found around the springs, wetlands, and drainages in the Galisteo Basin must be protected;

**6.** clean air and water are essential to most resources and activities in the Galisteo Basin and will be degraded by DCI activity; and

**7.** sensitive environmental systems and cultural, archaeological and historic sites in the Galisteo Basin require permanent protection from DCI projects.

**11.~~3~~7. ~~REGULATION~~General Regulations for all DCIs.**

**11.7.1. Identification, Mapping, and Analysis of Potential Impacts.** The Environmental Impact Report (EIR) shall identify whether potential impacts would occur, where a "Yes" is indicated in the column for the proposed use, with respect to the category of potential impacts indicated in the row. The EIR shall include a description and maps of relevant information related to these impacts both on- and off-site, and identify whether factors related to these impacts exist on the property or would be affected either on- or off-site by the proposed use and development of the property, and describe whether and how potential adverse impacts will be avoided or mitigated. The categories of potential impacts that are listed in Table 11-1 below, shall be construed to be part of the environmental setting, environmental effects, and avoidance or mitigation of impacts and effects.

**Table 11-1 Categories of Impacts to be Identified, Mapped and Addressed.**

| CATEGORY OF POTENTIAL IMPACTS TO IDENTIFY, MAP, AND ADDRESS | SAND AND GRAVEL EXTRACTION | LANDFILLS | JUNKYARDS |
|---|---|---|---|
| Federal and State endangered and threatened species and species of concern impacts | Yes | Yes | Yes |
| Connectivity and protection of significant wildlife habitat areas | Yes | Yes | Yes |

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| | | | |
|---|---|---|---|
| Stormwater runoff rates, surface water flows and levels | Yes | Yes | Yes |
| Surface water contamination, and degradation generally | Yes | Yes | Yes |
| Wetland and riparian area viability | Yes | Yes | Yes |
| Groundwater levels and availability, potential groundwater depletion | Yes | Yes | Yes |
| Groundwater contamination, and degradation generally | Yes | Yes | Yes |
| Water well contamination potential | Yes | Yes | Yes |
| Erosion, siltation, and dust potential | Yes | Yes | Yes |
| Soils bearing strength and stability for development | No | Yes | No |
| Wildfire hazard | Yes | No | Yes |
| Earthquake and landslide hazards | No | Yes | No |
| Flooding hazards and floodwater contamination | Yes | Yes | Yes |
| Archaeological and historic resource protection | Yes | Yes | Yes |
| Impacts to landscape scenic quality | Yes | Yes | Yes |
| Impacts to conservation and open space areas, scenic roads, and recreation trails, including visual impacts and noise | Yes | Yes | Yes |
| Viability of agricultural crop lands and improved pasture lands | Yes | Yes | No |
| Nuisance, hazard, traffic, character, and visual impacts to residential uses | Yes | Yes | Yes |
| Nuisance, hazard, and visual impacts to commercial and public or institutional uses | Yes | Yes | Yes |
| Adequacy of roads for intended use | Yes | Yes | Yes |
| Water system availability and capacity | Yes | No | No |

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| | | | |
|---|---|---|---|
| Fire protection and emergency medical service availability and response times | Yes | Yes | Yes |

**11.8. Regulations for Landfills.**

**11.8.1. Purpose; Intent.** The purpose of this Section is to establish operational, location, and general standards for landfills and associated activities that are designed to establish reasonable limitations, safeguards, and to mitigate negative impacts on the surrounding properties.

**11.8.2. Applicability.** This Section 8 applies to the place of business or establishment which is maintained, operated or used for disposal of solid waste located within Santa Fe County.

**11.8.3. Operational Standards and Requirements.**

**11.8.3.1 Operating Permit.** A Solid Waste permit shall be obtained from the New Mexico Environmental Improvement Board per Title 20, Chapter 9, Part 3 of the New Mexico Administrative Code (NMAC). The permit shall be submitted prior to obtaining a Conditional Use Permit.

**11.8.3.2. Access.** Adequate and available access is required per Section 7.4 (Access and Easements) of the SLDC.

**11.8.3.3. Visual Screening Measures.** Visual screening is required per Section 7.6 (Landscaping and Buffering) of the SLDC plus the following standards.

**1. General.** The view from all public roads, rivers, and adjoining residential areas shall be screened.

**2. Buildings**. All buildings' design, scale, and location shall reduce the visibility from off site.

**3. Surrounding Vegetation.** Any vegetation on site that can act as screening of the extraction area shall be preserved.

**11.8.4.4. Lighting.** All Landfills must comply with Section 7.8 (Lighting) of the SLDC.

**11.8.3.5. Signs.** All development must comply with Section 7.9 (Signs) of the SLDC.

**11.8.3.6. Parking and Loading.** All landfills must meet the parking and loading requirements in Section 7.10 (Parking and Loading) of the SLDC.

**11.8.3.7. Hazardous Materials.** Any fuel, explosives, or other hazardous materials stored on the site shall be contained within an impoundment structure. The impoundment structure shall be set back a minimum of 300 feet from any property boundary.

**11.8.3.8. Protection of Historic and Archaeological Resources.** Any landfill development shall submit an archaeology report conforming to the requirements of Section 7.16 (Protection of Historic and Archaeological Resources) of the SLDC.

**11.8.3.9. Terrain Management.** Requirements of Section 7.17 (Terrain Management) of the SLDC shall be met.

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**1. Grading and Erosion Control.** In addition to the Terrain Management requirements of the SLDC, drainage and erosion control shall comply with the following:

**a. Removal of Organic Materials.** Fill areas shall be properly prepared by removing organic materials, such as vegetation and rubbish, and any other material which is detrimental to the proper compaction of the site or not otherwise conducive to the stability of the site.

**b. Site Vegetation Removal and Revegetation.** The removal of existing vegetation shall not occur more than 30 days prior to the commencement of grading, and permanent revegetation shall be commenced as soon as practical after any landfill has been filled, covered and graded. Site specific native seed mixtures shall be used to revegetate all disturbed areas with the exception of landscaped areas if any. Mulching shall be used in order to assure vegetation growth.

**c Topsoil, Stripping, Stockpiling, and Redistribution.** The existing topsoil shall be stripped and stockpiled on site for redistribution over the completed final grade.

**d. Cut and Fill Slopes.** Cut and fill slopes shall be graded to a slope no steeper than 2:1, or 50%, to allow for permanent revegetation or landscaping unless a retaining wall is used or a steeper slope is approved by the County. The County may require the submission of a detailed engineering report and analysis prepared by a professional engineer or landscape architect relative to the safety of such cuts and fills, if necessary considering soil type, soil stability, and any proposed structures.

**2. Sediment and erosion control.** Practices for sediment and erosion control shall be designed, constructed and maintained to mitigate further entry of sediment to streams, lakes, ponds, or any land outside the permit area. Where applicable, sediment and erosion control measures to prevent degradation of the environment shall consist of the utilization of proper reclamation methods and sediment control practices including, but not limited to:

**a.** grading to reduce the rate and volume of run-off;

**b.** retaining sediment within the pit and disturbed area; and,

**c.** establishing temporary vegetation, mulch, or other soil stabilization application as needed to prevent short-term erosion, sedimentation or windblown dust.

**11.8.3.10. Air Quality and Noise.**

**1.** All requirements of Section 7.21 (Air Quality and Noise) of the SLDC shall be met.

**2.** Noise Study. A noise study showing the projected noise from the specific equipment to be used is required to be submitted with the application.

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**11.8.3.11. Setbacks.**

**1.** The refuse and salvage material shall be at least 300 feet from all property lines and 500 feet from all public road rights-of-way, public recreational easements, and environmentally sensitive lands.

**2.** The site shall be located at least one-quarter mile from any existing dwelling or land subdivided for residential development.

**3.** Vegetation within the setbacks from the property boundary shall be preserved and supplemented, for mitigation of negative impacts. Existing native vegetation on the entire operation site shall be preserved to the maximum extent possible.

**11.8.3.12. Protection from Trespassing.** The proposed use shall be fenced in accordance with the standards in Section 7.7. (Fences and walls) of the SLDC for health and safety protection.

**11.8.3.13. Analysis of Landfills in the County.** An analysis of the existing capacity, the remaining life, and the need for a new major solid waste disposal site shall be submitted with the application.

**11.8.3.14. Hours of Operation.** Landfills shall not be open to the public earlier than 8 a.m. nor remain open later than 5 p.m.

## 11.9. Regulations for Junkyards.

**11.9.1. Purpose; Intent.** The purpose of this Section is to establish operational, location, and general standards for junkyards and associated activities that are designed to establish reasonable limitations, safeguards, and mitigate negative impacts on the surrounding properties.

**11.9.2. Applicability.** This Section 9 applies to the place of business or establishment which is maintained, operated or used for storing, keeping, buying or selling junk or scrap, or for the maintenance or operation of a motor vehicle graveyard located within Santa Fe County.

**11.9.3. Operational Standards and Requirements.**

**11.9.3.1. Access.** Adequate and available access is required per Section 7.4 (Access and Easements) of the SLDC.

**11.9.3.2. Visual Screening Measures.** Visual screening is required per Section 7.6 (Landscaping and Buffering) of the SLDC plus the following standards:

**1. General.** The view from all public roads, rivers, and adjoining residential areas shall be screened.

**2. Buildings.** All buildings' design, scale, and location shall reduce the visibility from off site.

**3. Surrounding Vegetation.** Any vegetation on site that can act as screening of the storage or worksite area shall be preserved.

**4. Hours of Operation.** Junkyards shall not be open to the public earlier than 8 a.m. nor remain open later than 5 p.m.

**11.9.3.3. Lighting.** All junkyard developments must comply with Section 7.8 (Lighting)

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of the SLDC.

**411.9.3. Signs.** All junkyard development must comply with Section 7.9 (Signs) of the SLDC.

**11.9.3.5. Parking and Loading.** All junkyards must comply with Section 7.10 (Parking and Loading) of the SLDC.

**11.9.3.6. Hazardous Materials.** Any fuel, explosives, or other hazardous materials stored on the site shall be contained within an impoundment structure.

**11.9.3.7. Protection of Historic and Archaeological Resources.** Any application for a junkyard development shall submit an archaeological report conforming to the requirements of Section 7.16 (Protection of Historic and Archaeological Resources) of the SLDC.

**11.9.3.8. Terrain Management.** Requirements of Section 7.17 (Terrain Management) of the SLDC shall be met.

**11.9.3.9. Air Quality and Noise.**

**1.** The requirements of Section 7.21 (Air Quality and Noise) of the SLDC shall be met.

**3. Noise Study.** A noise study showing the projected noise from the specific equipment to be used is required to be submitted with the application.

**4.** Reclamation and revegetation shall be required at such time as the junkyard ceases to do business.

**11.9.3.10. Setbacks.**

**1.** The refuse and salvage material shall be at least 300 feet from all property lines and 500 feet from all public road rights-of-way, public recreational easements, and environmentally sensitive lands.

**2.** Vegetation within the setbacks from the property boundary shall be preserved and supplemented, for mitigation of negative impacts. Existing native vegetation on the entire operation site shall be preserved to the maximum extent possible.

**11.9.3.11. Protection from Trespassing.** All proposed use shall be fenced in accordance with the standards in Section 7.7. (Fences and walls) of the SLDC for health and safety protection.

**11.10. Regulations for Sand and Gravel Extraction.** ~~Reserved, pending subsequent amendment to the SLDC that regulates sand and gravel extraction whose scope and scale requires that it be regulated as a DCI.~~

**11.10.1. Purpose; Intent.** The purpose of this Section 10 is to establish operational, location, reclamation and general standards for sand and gravel operations and associated extraction activities that are designed to establish reasonable limitations, safeguards, mitigate negative impacts on the surrounding properties, and provide controls for the conservation of natural resources and rehabilitation of land.

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**11.10.2. Applicability.** This Section 10 applies to the extraction and processing of any sand and gravel extraction operation that affects 10 or more acres of land or extracts more than 20,000 tons of earth materials, or utilizes blasting. Small, incremental increases of an approved extraction operation by the same owner or operator that effectively avoid the application and approval requirements of this ordinance are prohibited. No applicant, operator or owner, whether individually or as an agent or corporate officer of any business entity, who has been granted an approval to operate a sand and gravel extraction operation of less than 10 acres of land or less than 20,000 tons of earth material shall be granted approval to operate an expanded or similar extraction operation on the same or contiguous property, where the total of any additional operation increases the extraction operation to one in excess of 10 acres of land, or to one in excess of 20,000 tons of earth material. Instead, any such additional operation shall be treated as a DCI and shall require application and processing under this Ordinance.

**11.10.3.** Sand and gravel extraction and processing includes any removal, stockpiling, or processing of any material identified in the definition of sand and gravel. Any screening, crushing, gravel recycling, washing, or stockpiling of aggregate, in concert with extraction, constitutes a gravel operation.

**11.10.4.** This Section 11.7.7 does not apply to:

**11.10.4.1.** Excavation related to basements and footings of a building, or retaining walls.

**11.10.4.2.** Sand and gravel operations that are less than 10 acres in size and extract less than 20,000 tons of earth materials and which do not utilize blasting, are regulated by Section 10.19 of this SLDC.

**11.10.4.3.** Mineral Exploration and Extraction regulated by Article III, Section 5 of this Ordinance.

**11.10.5. Operational Standards and Requirements.**

**11.10.5.1. State and Federal Permits.** All sand and gravel extraction operations shall submit all required state permits, FEMA and/or Army Corps of Engineers permits with the Conditional Use Permit application.

**11.10.5.2. Hours of Operation.** Hours of operation are limited to the period between sunrise or 7:00 a.m. whichever is latest, and sunset or 6:00 p.m., whichever is earliest, Monday through Saturday. The Board may further restrict hours per section 10.3.4.5.1 of this Ordinance.

**11.10.5.3. Water Services Availability.** A Water Service Availability Report shall be submitted with the application per Section 6.5 (Water Service Availability Report) of the SLDC.

**1.** Extraction and filling of a reservoir shall not infringe on downstream appropriator's water rights.

**11.10.5.4. Project Traffic Impacts and Road Standards.**

**1.** All roads carrying sand and gravel related traffic shall conform to the requirements of Section 7.11 (Road Design Standards) of the SLDC.

**2. Transportation Facility Improvements.** An analysis of all roads accessing

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the site shall be submitted to the County with detailed information concerning the ability of the roads to adequately support the projected traffic, including potential weight of vehicles for 20 years or the life of the sand and gravel extraction operation. Cost of all required improvements, on and off-site, shall be borne entirely by the applicant.

**3.** The Board of County Commissioners may establish a maximum size and number of truck trips allowed to enter and exit a processing location where needed to:

**a.** avoid a reduction in the level of service for all access roads and roads within the study area as provided in the Traffic Impact Analysis (TIA) the time of application;

**b.** avoid the deterioration of all access roads; and

**c.** otherwise comply with Section 6.6 of the SLDC.

**4. Traffic Counts.** Traffic counts at the entrance of the operation shall be presented at the annual review of the operation's permit.

**5. Designation of Construction and Haul Routes.** The application shall designate proposed truck haul and traffic routes that shall be subject to limitation by the BCC, which proposal shall:

**a.** avoid residential areas, commercial areas, environmentally and visually sensitive areas, schools and other civic buildings, municipalities, and already congested locations where possible;

**b.** identify alternative routes;

**c.** identify the timing of truck haul traffic; and

**d.** include a fugitive dust plan for designated routes to prevent loss of loads and fugitive dust during transportation.

**11.10.5.5. Project description.** The applicant shall provide a detailed statement describing the project including:

**1.** The amount and type of materials to be excavated;

**2.** Duration of the excavation activity and reclamation activity;

**3.** The proposed method of excavation;

**4.** The amount of fill to remain on site; and

**5.** A statement from a New Mexico professional engineer indicating the type of material(s) to be excavated and their suitability for road and structural fill construction.

**11.10.5.6. Access.** Adequate and available access is required per Section 7.4 (Access and Easements) of the SLDC.

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**11.10.5.7. Visual Screening Measures.** Visual screening, which shall include all phases, is required per Section 7.6 (Landscaping and Buffering) of the SLDC plus the following standards.

**1. General.** The view from all public roads, rivers, parks, open space and adjoining residential areas shall be screened.

**2. Buildings.** The design, scale, and location of all buildings shall reduce the visibility from off site.

**3. Surrounding Vegetation.** Any vegetation on site that can act as screening of the extraction area shall be preserved, including vegetation existing in the required setbacks.

**4.** For all proposed extraction areas of greater than 10 acres, the extraction shall be designed in phases in order to minimize the visual impact.

**11.10.5.8. Lighting.** All Sand and Gravel operations must comply with Section 7.8 (Lighting) of the SLDC.

**11.10.5.9. Signs.** All sand and gravel operations must comply with Section 7.9 (Signs) of the SLDC, but are limited to two signs of 4 square feet each.

**11.10.5.10. Parking and Loading.** All Sand and Gravel operations must comply with Section 7.10 (Parking and Loading) of the SLDC.

**11.10.5.11. Hazardous Materials.** Any fuel, explosives, or other hazardous materials stored on the site shall be contained within a lined impoundment structure.

**11.10.5.12. Wildlife.** Protection is required for critical environmental resources including wetlands, riparian areas, and important wildlife habitats.

**1.** Any modification of the terrain within a floodplain area shall be environmentally sound and not result in net loss of wildlife habitat.

**2.** All sand and gravel operations shall be limited to locations and times of year that ensure no significant negative impacts to federally listed endangered species.

**3.** No sand and gravel development shall interrupt a wildlife corridor.

**11.10.5.13. Protection of Historic and Archaeological Resources.** Any application for sand and gravel extraction shall submit an archaeological report conforming to the requirements of Section 7.16 (Protection of Historic and Archaeological Resources) of the SLDC.

**11.10.5.14. Terrain Management.** Requirements of Section 7.17 (Terrain Management) of the SLDC shall be met.

**1. Grading and Erosion/Sediment Control.** In addition to the Terrain Management requirements of the SLDC, drainage and erosion control shall comply with the following:

**a. Removal of Organic Materials.** Fill areas shall be properly prepared

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by removing organic materials, such as vegetation and rubbish, and any other material which is detrimental to the proper compaction of the site or not otherwise conducive to the stability of the site.

**b. Site Vegetation Removal and Revegetation.** The removal of existing vegetation shall not occur more than 30 days prior to the commencement of grading; however, permanent revegetation shall be commenced as soon as practical after the completion of grading. Site specific native seed mixtures shall be used to revegetate all disturbed areas with the exception of lawn and landscaped areas if any. Mulching shall be used in order to assure vegetation growth.

**c. Topsoil, Stripping, Stockpiling, and Redistribution.** The existing topsoil shall be stripped and stockpiled on site for redistribution over the completed final grade.

**d. Cut and Fill Slopes.** Cut and fill slopes shall be graded to a slope no steeper than 2:1, or 50%, to allow for permanent revegetation or landscaping unless a retaining wall is used or a steeper slope is approved by the County. The County may require the submission of a detailed engineering report and analysis prepared by a professional engineer or landscape architect relative to the safety of such cuts and fills, if necessary considering soil type, soil stability, and any proposed structures.

**2. Sediment and Erosion Control.** Practices for sediment and erosion control shall be designed, constructed and maintained to mitigate further entry of sediment to streams, lakes, ponds, or any land outside the permit area. Where applicable, sediment and erosion control measures to prevent degradation of the environment shall be instituted and consist of utilization of proper reclamation methods and sediment control practices including, but not limited to:

**a.** grading material to reduce the rate and volume of run-off;

**b.** retaining sediment within the pit and disturbed area; and,

**c.** establishing temporary vegetation or mulch on short term erosion, sedimentation or windblown dust.

**11.10.5.15. Air Quality and Noise.**

**1.** The requirements of Section 7.21 (Air Quality and Noise) of the SLDC shall be met; however, only a preliminary air quality report is required for submittal with the application. Once approved, a final air quality permit is required prior to commencement of any activity on the site.

**2. Noise Study.** A noise study showing the projected noise from the specific equipment to be used is required to be submitted with the application. Such noise study shall provide a baseline of three consecutive weekdays representative of non-excavation activities.

**3. Fugitive Dust Control.** Dust control is required for all active sand and gravel extraction operations.

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**a.** The presence of dust at a sand and gravel operation is attributable to earth moving, soil or surface disturbance, construction or demolition; movement of motorized vehicles on any paved or unpaved roadway or surface, right-of-way, lot or parking area; and the tracking out or transport of bulk material (i.e., sand, gravel, soil, aggregate, or any other inorganic or organic material capable of creating fugitive dust related to extraction activities) onto any paved or unpaved roadway in Santa Fe County.

**b.** Fugitive dust consists of airborne particulate matter from a source, resulting in particulate matter emissions that can be detected by the human eye.

**c.** Dust control measures include but are not limited to the use of wet suppression through manual or mechanical application; the use of fabric fencing material or equivalent that shall be a minimum of 24 inches in height and anchored 6 inches below the surface on the bottom edge installed around the perimeter of the disturbed surface area; the use of dump truck tarps; and the use of chemical dust suppressant applied in amounts, frequency, and rates recommended by the manufacturer.

**d.** In no circumstances shall a sand and gravel operator continue extraction operations during a high wind event.

**e.** All sand and gravel operations shall incorporate an entry/exit apron, steel grates, or other equivalent devices capable of removing bulk material from the tires of vehicle traffic.

**f.** An applicant for a sand and gravel Conditional Use Permit shall submit a fugitive dust control plan as part of the application. The fugitive dust plan must detail the control measures the operator intends to use to reduce the quantity of visible fugitive dust, transported material, temporary cessation of activity during a high wind event and track-out leaving the property or area under the control of the operator.

**11.10.5.16. Blasting Plan.** If a proposed operation intends to do any blasting, a blasting plan shall be submitted with the application and for any future blasting after the initial blast.

**1.** The plan shall be created by a qualified blasting firm which is knowledgeable with State of New Mexico requirements and National Fire Protection Association (NFPA) 495.

**2.** Blasting may only be conducted during the hours of operation in Section 10.3.2. above.

**3.** The blasting plan shall identify the maximum number of holes to be shot each occurrence, the type of explosive agent, maximum pounds per delay, method of packing, type of initiation device to be used for each hole, blasting schedule and establish noise and vibration standards.

**4.** The applicant shall notify the County of proposed blasting ten working days prior to a blast and shall provide the name of the qualified blasting firm and provide insurance of $1,000,000 for each occurrence.

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**5.** The County may hire a qualified blasting firm to review the applicant's blasting plan at the expense of the applicant (see Appendix A).

**6.** The operator shall require that any blasting be conducted by someone who has been trained and examined and who holds certification issued by the Director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department or the Director's designee. Comparable certification from another state is acceptable.

**11.10.5.17. Monitoring Report.** The applicant shall monitor all blasting and record all noise and vibration levels in a monitoring report. The monitoring report shall be submitted to the Land Use Administrator within five (5) working days of blasting and shall comply with the following ground vibration and noise levels:

**1.** Ground vibration shall not exceed 0.50 inches per second Peak Particle Velocity (PPV) at any property line, unless such property is owned by the operator and not leased to any other person.

**2.** Noise levels shall not exceed the values specified in Table 11-2 below:

**Table 11-2 Maximum Allowable Noise Levels.**

| **Lower frequency limit of measuring system, Hz + 3dB** | **Maximum level in dB** |
|---|---|
| 0.1 Hz or lower—flat response | 134 peak |
| 2.0 Hz or lower—flat response | 133 peak |
| 6.0 Hz or lower—flat response | 129 peak |

**11.10.5.18. Sand and Gravel Operation Setbacks.**

**1.** Sand and gravel operations shall be setback:

**a.** 500 feet from all property lines;

**b.** 500 feet from all public road rights-of-way, public recreational easements, and environmentally sensitive lands; and

**c.** One half mile from residential structures.

**2.** Vegetation within the setbacks from the property boundary shall be preserved and supplemented, as necessary, for mitigation of negative impacts. Existing native vegetation on the entire operation site shall be preserved to the maximum extent possible

**11.10.5.19. Protection From Trespassing.** The proposed use shall be fenced in accordance with the standards in Section 7.7. (Fences and walls) of the SLDC for health and safety protection.

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**11.10.5.20. Height.** Any equipment used for sand and gravel extraction must meet the height standards for the zoning district in which it is located. Height shall be measured from existing grade prior to commencement of any grading activity on the site, and shall also conform to the height measurement requirements of Section 7.17.9.3 of the SLDC.

**11.10.5.21. Activities in or Near Water Bodies.**

**1. Uncontrolled/Natural Watercourses.** When working near uncontrolled, or naturally flowing, watercourses, the proposed operation shall be conducted in a manner that neither disturbs nor degrades fisheries and waterfowl habitat. This requirement shall apply to any water body, which shall include: naturally occurring rivers, streams, ponds, lakes, seasonal streams and seasonal lakes.

**2. Minimum Buffer.** A minimum 100 foot buffer of natural vegetation between the water's edge and any sand and gravel operation is required.

**3. No Negative Impact.** No extraction is permitted that is deemed by the County to have a negative impact on any water body.

**11.10.5.22. Solid Waste.** All sand and gravel operations must comply with Section 7.20 (Solid Waste) of the SLDC.

**11.10.5.23. Liquid Waste.** All sand and gravel operations must comply with the wastewater requirements of Section 7.13 (Water Supply, Wastewater and Water Conservation) of the SLDC.

**11.10.5.24. Phasing.** All phases shall be clearly staked prior to commencement of any activity on the property. The applicant must GPS all stakes and make them digitally available to the County upon request in GIS format based on the standard Santa Fe County GIS spatial reference.

**1.** The maximum size of any phase of the development shall be ten acres.

**2.** Only one phase of the development shall be excavated at a time.

**11.10.5.25. Reclamation Plan and Bonding.** A reclamation plan shall be provided that is designed and certified by a New Mexico registered professional engineer or landscape architect, and meets the reclamation standards specified below in Section 10.3.25. The plan shall restrict extraction operations to areas of workable size so that no area is left inactive and unreclaimed for more than 60 days, unless approved by the DCI Permit. The plan shall specify any phasing of reclamation and estimate the cost of the entire reclamation project. A bond shall be posted to implement the reclamation plan at 125% of expected cost of the reclamation. The bond amount shall be reviewed annually, as part of the annual review of the DCI Permit, for the purpose of up-dating the bond amount in accordance with any changing costs of reclamation. The reclamation plan does not replace a landscape plan that may be required for any subsequent development of the gravel processing and extraction site.

**11.10.5.26. Reclamation Standards.** The reclamation plan shall comply with the following standards:

**1. General.** Reclamation shall restore land areas to a condition suitable for new land uses. Wildlife habitat shall be restored in a manner comparable or better, to the habitat conditions that existed prior to the gravel operation. In general, all

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slopes shall be graded to 3:1 or flatter to promote revegetation.

**2. Grading.** Disturbed areas shall be re-graded to blend into and conform to the general natural form and contours of the adjacent areas. In general, all slopes (cut or fill) shall be graded to 3:1 or flatter. Such methods must be approved as part of the Reclamation Plan.

**3. Revegetation of all disturbed areas is required.** The plan shall describe the vegetation prior to any grading of the site and shall demonstrate how the site will be returned to its original, or better vegetated condition.

**4.** Mining operations shall be allowed to progress so long as the disturbed areas within previous phases have been reclaimed within 6 months after the commencement of the new phase; provided that, the County will consider extensions due to weather conditions and taking into account seasonal changes. Reclamation shall commence within 30 days of the commencement of a new phase of extraction.

**5. Prior to Approval of Reclamation Study.** In no case shall a location and time of excavation be approved that may have negative impacts on any state or federally designated endangered or threatened species, or critical habitat.

**11.10.5.27. Existing Sand and Gravel Extraction Uses.** Any sand and gravel extraction use existing prior to adoption of the Land Development Code (January 1, 1981) and having been in continuous operation, may continue operations and may expand up to 25% beyond the area currently and formerly mined on that parcel. Any sand and gravel extraction use approved by the County prior to the adoption of this Ordinance may continue operations in accordance with their final County approvals. Any new phase or further expansion proposed, but not previously approved, shall comply with this Ordinance.

**11.10.5.28. Annual Operating Plan and Monitoring Report.**

**1.** An annual operating plan and monitoring report, capable of audit, shall be prepared and submitted to the Land Use Administrator by January 31st each year. The report shall summarize the operations of the previous year including number of truck trips and sizes of trucks, the area mined, quantities mined in tonnage and cubic yards, the amount of area undergoing reclamation, and the success of reclamation including any violations issued and their outcome.

**2.** For the first three years, the report shall be reviewed at a public hearing with the Board of County Commissioners. After the third year, the Board may allow the report to be reviewed administratively by the Land Use Administrator and brought to the Board when the Land Use Administrator has determined a significant change in operations has occurred, or circumstances have changed warranting re-evaluation of the DCI permit.

~~. The following regulations shall apply to DCIs:~~

~~**11.3.1. Oil and Gas Drilling and Production.** *See* County Ordinance No. 2008-19.~~

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~~**11.3.2. Mining and Resource Extraction.** Reserved (*but see* Section 1.1.7. and Chapter 10, *generally* and County Ordinance 1996-10, Article II, Section 5 "Mineral Exploration and Extraction").~~

~~**11.3.3. Substantial Land Alteration.** Reserved.~~

~~**11.3.4. Landfills.** Reserved.~~

~~**11.3.5. Large-Scale Feedlots and Factory Farms.** Reserved.~~

~~**11.3.6 Sand and Gravel Extraction.** Reserved, pending subsequent amendment to the SLDC that regulates sand and gravel extraction whose scope and scale requires that it be regulated as a DCI.~~

**11.11. Regulations for Large-Scale Feedlots and Factory Farms. Reserved.**

**11.12. Regulations for Oil and Gas Drilling and Production.** *See* County Ordinance No. 2008-19.

**11.13 Regulations for Mining and Resource Extraction.** Reserved (*but see* Section 1.1.7. and Chapter 10, *generally* and County Ordinance 1996-10, Article III, Section 5 "Mineral Exploration and Extraction").

~~**11.3.3. Substantial Land Alteration.** Reserved.~~

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# Chapter 12 – Growth Management

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# CHAPTER TWELVE – GROWTH MANAGEMENT

**12.1. PURPOSE.** The purpose of this chapter is to implement the County's growth management strategy set out in the SGMP. That strategy intends to direct growth to areas served by adequate facilities and services. The strategy relies on a wide range of techniques including the Capital Improvements Plan ("CIP"), development fees, funding mechanisms (including public improvement and County improvement districts, among others), and liberal use of voluntary development agreements. In addition, other growth management strategies included in this section include the establishment of sustainable development areas, the CIP, and the Official Map.

## 12.2. ADEQUATE PUBLIC FACILITIES REGULATIONS (APFRs).

**12.2.1. Purpose and Overview.** The purpose of APFRs is to ensure sustainable growth by requiring that adequate public facilities and services are available concurrently with new development. Evaluation of public facilities occurs at the time of application using the Adequate Public Facilities Assessment (APFA) and applicable SRAs described in Chapter 6. The adequacy of infrastructure and services are measured against the County's adopted, funded, and prioritized CIP and the adopted levels of service (LOS) set forth in this Chapter. Facilities evaluated through the APFR process include water, sewer, storm water, emergency services including fire protection and law enforcement, parks, open space and trails, and transportation. An applicant may expect that the County will construct facilities identified in the CIP and applicants are only expected to provide infrastructure and services to the extent the proposed development degrade the expected level of service.

**12.2.2. Applicability.** This subsection applies to any application for discretionary development approval that requires an AFPA as set forth in Tables 4-1 and 6-1.

**12.2.3. General Requirements.**

**12.2.3.1.** The established sustainable development areas (SDAs) govern the timing and sequencing of development. With certain caveats specified elsewhere in this Chapter, development in SDA-1 may generally proceed immediately; development in SDA-2 will require advancement of facilities and services before development may proceed, or may be delayed until facilities and services become available; development in or SDA-3 is not expected to occur but if development does occur, advancement of facilities and services will be required. The SDA map is attached as Map 1 in Appendix C.

**12.2.3.2.** Notwithstanding the timing and sequencing of development described in the previous paragraph, development shall maintain and not degrade the County's adopted LOS for a period of twenty (20) years, except that it will be assumed in all cases that the adopted LOS requirements are presently being met whether or not this in fact is true. Thus, an applicant shall not be responsible for upgrading any LOS to the adopted standard if the adopted standard is not currently being met; an applicant is only charged with the incremental degradation from the specified LOS that results from the proposed development.

**12.2.3.3.** Additional standards related to adequate public facilities are present in design standards in Chapters 6 and 7.

**12.2.3.4** A specific finding shall be made for each application concerning the adequacy of public facilities and services associated with the proposed development.

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**12.2.3.5.** In order to avoid denial, deferral or conditional approval of an application, an applicant for a discretionary development approval may propose to construct, advance or otherwise secure funding for the public facilities and services necessary to provide capacity to accommodate the proposed development at the time of discretionary development approval, incorporating legislative requirements in the SLDC that pre-date the submittal of the application including, but not limited to, the provision of adequate public facilities and services. The terms of the construction or advancement of public facilities and services may be incorporated into a voluntary development agreement consistent with Section 12.4 of the SLDC.

**12.2.4. Sustainable Development Areas (SDAs).**

**12.2.4.1.** Three sustainable development areas (SDA-1, SDA-2, and SDA-3) are established in accordance with the SGMP. Sustainable development areas are not regulatory zones and have no direct correspondence with zoning. They are established to guide the timing and sequencing of infrastructure, services, and development within the County.

**12.2.4.2.** SDA-1 is characterized as an area where adequate public facilities presently exist, are planned, budgeted or reasonably available. This is a primary growth area that was targeted for growth in the SGMP. Facilities and services within SDA-1 include water, sewer, storm water, emergency services, parks, open space and trails, and transportation.

**12.2.4.3.** SDA-2 is characterized as an area where adequate public facilities do not exist but are planned, budgeted and will be available between ten (10) and twenty (20) years in the future. SDA-2 is a secondary growth area that contains a mix of previously developed areas and areas where future development is likely and reasonable to occur. SDA-2 areas are expected to urbanize over the next ten (10) to twenty (20) years as public infrastructure and services are provided. SDA-2 is a secondary growth area that was targeted for future growth in the SGMP and infrastructure and services are planned to become available in the future in the CIP, but facilities and services do not currently exist in SDA-2 and will need to be advanced if development is desired immediately.

**12.2.4.4.** SDA-3 is characterized by rural and largely undeveloped areas that presently are now predominantly agricultural. SDA-3 lands may contain natural resources, wetlands, sensitive hillsides, archaeological areas and other environmentally sensitive areas. Infrastructure and services are not available, not budgeted and not planned, and any development requiring infrastructure shall be provided at the sole expense of the developer. Urban and suburban development in SDA-3 areas is not likely to occur for more than twenty (20) years, if at all.

**12.2.5. Determination of Adequacy of Public Facilities and Services.**

**12.2.5.1. Determination Required.** Notwithstanding which sustainable growth management area a property is located within, each application to which this subsection applies shall require a finding of adequate public facilities and services.

**12.2.5.2. Scope of Determination.** A determination concerning public facilities and services establishes that:

**1.** the public facilities and services exist, are planned, budgeted or reasonably available;

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**2.** if public facilities and services are planned but not yet constructed, the determination is sufficient for approval of a development order, but the development order may be conditioned on completion (or advancement) of facilities and services;

**3.** public facilities and services are sufficient for subsequent phases to be completed during the approved development period; and

**4.** present and future availability of facilities and services (the terms under which facilities will be provided) shall be assured through a voluntary development agreement.

**12.2.5.3. Possible Findings.** The APFA shall provide a basis for the following findings:

**1.** The application provides for adequate public facilities and services at the time of development approval;

**2.** The application shall be denied because adequate public facilities and services are not available and will not be available;

**3.** The application shall be conditionally approved or approved in a sectionalized manner because inadequate public facilities and services are not immediately available or are presently adequate, but will be available for the initial or subsequent sectionalized phases of the project for a future year in which the CIP shows that adequate public facilities will be constructed and available; and/or

**4.** The application shall be conditionally approved or approved in a sectionalized manner because adequate public facilities and services are not immediately available or presently adequate, but will be available for the initial or subsequent sectionalized phases of the project because the facilities and services will be advanced, in whole or in part, by the applicant.

**12.2.5.4. Expiration of Determination.** A development order or voluntary development agreement containing a determination of the adequacy of public facilities and services is valid until the expiration of the development order or voluntary development agreement.

**12.2.5.5. Determining Compliance; Methodology.** The APFA shall make a determination whether adequate public facilities and services are available at the adopted level of service (LOS) for each public facility and service set forth in Table 12-1. Except for roads, the LOS is the value appearing in Column (B) of Table 12-1 attributable to the impact area in Column (C).

**1.** Compliance with LOS standards shall be measured for each public facility and service type set forth in Column (A) in accordance with the corresponding standards set forth in Column (B). The LOS for each application for development approval shall be measured within the impact area set forth in Column (C) for each corresponding facility in Column (A).

**2.** Public facilities and services shall be adequate if the application demonstrates that available capacity exists to accommodate the demand generated by the proposed development, applying the methodology described herein.

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**Table 12-1: Adopted Levels of Service (LOS).**

| (A) Public Facility -Type or Location | | (B) Level of Service | (C) Impact Area |
|---|---|---|---|
| **Roads** | SDA-1 and SDA-2 | D | within ½ mile of development |
| | SDA-3 | C | within ½ mile of development |
| **Emergency Response** | Fire Vehicles and Facilities | Must achieve ISO 7/9 | countywide |
| | Sheriff Vehicles | 2.4/1,000 residents | countywide |
| | Sheriff Facilities | 111 sf/1,000 residents | countywide |
| **Water Supply and Liquid Waste** | Water | 0.25 acre ft/year (residential)* | per residence |
| | | To be determined by the Administrator based upon water budget approval | per 10,000 sf nonresidential |
| | Sewer | Must be created in accordance with § 7.13.10. | county utility, local treatment facility, or project site |
| **Parks, Trails and Open Space** | Parks | 1.25 acres/1,000 residents | countywide |
| | Trails | 0.5 miles/1,000 residents | countywide |
| | Trailheads | 1 each at the ends of the trail, and a trailhead every 5 miles | countywide |
| | Open Space | 85 acres/1,000 residents | countywide |

*Subject to reduction pursuant to Section 7.13.6.1.

**12.2.5.6. Adequacy of facilities and services within SDA-1.** As described in subsection 12.2.4.2, facilities and services within SDA-1 are planned, budgeted or reasonably available and, if not physically present, may be included in the CIP. The adequacy of facilities and services in SDA-1 are judged from an assumption that such facilities and services are available and adequate. However, when facilities and services are not physically present (but are planned and budgeted pursuant to the CIP) they may nevertheless be needed immediately to serve the development. If the County is unable to provide the facilities and services for the development when needed, the facilities and services shall be advanced as described in the next subsection.

**12.2.6. Advancement of Public Facilities and Services by Applicant.**

**12.2.6.1.** In order to avoid denial, deferral, or conditional approval of a development permit based on the lack of adequate public facilities and services, an applicant for a discretionary development approval may instead propose to construct, advance, fund, or secure public funding, for the public facilities and services to provide the necessary Level of Service.

**12.2.6.2.** Any such proposed advancement of public facilities and services shall not be accepted unless:

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**1.** Adequate public facilities and services are to be provided by the applicant for the development permit, either directly or through the appropriate self-funding apparatus;

**2.** The necessary public facilities and services are each a prioritized and funded capital improvement by the adopted CIP in the year in which the improvements are planned;

**3.** If the public facility and service is not immediately available, adequate financial assurance has been provided to assure that the public facilities or services will be provided;

**4.** The commitment to advance the public facilities and services has been documented in a duly signed voluntary development agreement; and

**5.** Appropriate conditions are included to ensure that the applicant will obtain any necessary and required approvals for construction of the public facilities or services.

**12.2.6.3.** Public facilities and services that are advanced may be phased along with the proposed development so long as the applicant provides the capacity needed to meet the adopted LOS for each phase of the development as it is completed. Where advancement of only a portion of infrastructure and services is approved, funding for the construction or funding of the balance of the public facility or service shall be identified and the future expenditure committed to in a voluntary development agreement.

**12.2.6.4.** Once public facilities and services are advanced, subsequent developments utilizing the same facilities and services within twenty years of the original installation shall reimburse the County for the costs of their proportionate share of the infrastructure and services. The County shall in turn reimburse the original developer of the infrastructure and services, less a 5% administrative assessment.

**12.2.7.** Financing of Adequate Public Services. An applicant for a development permit may elect to obtain public financing for a development or for the advancement of public facilities and services, or to obtain partial funding, through the appropriate funding mechanisms specified later in this Chapter.

## 12.3. CAPITAL IMPROVEMENTS PLAN.

### 12.3.1. Purpose and Findings.

**12.3.1.1.** This section implements the County's Capital Improvement Plan ("CIP"), approved and as amended by resolution of the Board from time to time. The CIP is the mechanism by which the County contemplates new public facilities and expansion of the capacity of existing public facilities which are needed to accommodate existing and anticipated future population and employment. Through the CIP, the County intends to use reasonable means to provide public facilities and services needed to accommodate new growth consistent with a positive County fiscal impact. Funds to implement the CIP will come from County general revenue, general obligation and revenue bonds, contributions and advances of capital improvements, public improvement districts ("PIDs"), County Improvement Districts, fees, development fees, public utility rates, and state and federal grants.

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**12.3.1.2.** The CIP, along with supplemental financial studies, prioritizes the need for public facilities, estimates the cost of public facilities, analyzes the fiscal capability of the County to finance and construct the facilities, determines which facilities are needed to address present deficiencies and which facilities are needed to support future growth, establishes financial policies to fund improvements, and provides a schedule for construction of improvements that ensures that facilities are available when needed for a twenty year period. The CIP shall be used for determining and calculating development fees, adequate public facilities requirements, Chapter 6 SRA analyses and County fiscal impact assessments.

**12.3.2. Basis for the CIP.** The CIP shall be based upon identified public needs for infrastructure and services, the geographic service area and location of major system components, and revenue sources and funding mechanisms.

**12.3.3. Analysis Supporting the CIP.** The CIP shall be based upon the following analyses:

**12.3.3.1.** The infrastructure and service needs of the County, both present and future;

**12.3.3.2.** The fiscal implications of existing deficiencies and future needs for each type of public facility and service;

**12.3.3.3.** The relative priority of need; and

**12.3.3.4.** An assessment of the likelihood that the needed infrastructure and services can be provided based upon the anticipated population and revenues, including:

**1.** Forecasting of revenues and expenditures for years 1-7; 8-13; and 14-20;

**2.** Projections of debt service obligations for currently outstanding bond issues;

**3.** Projections of the ad valorem tax base, assessment ratio and ad valorem tax rate;

**4.** Projections of other tax bases and other revenue sources, such as County general funds, federal and state grants and loans, voluntary development agreement financing, dedications, development fees, utility and PID rates, fees, taxes, assessments and service charges;

**5.** Projections of operating cost considerations; and

**6.** Projections of debt capacity.

**12.3.4. CIP Implementation.**

**12.3.4.1.** The CIP shall contain a 20 year schedule of capital improvement projects by SDA-1, SDA-2 and SDA-3 areas consisting of:

**1.** A schedule of first priority (years 1-7) capital improvements that the County has adopted to: reduce existing deficiencies; remain current with needed replacements, repairs and maintenance; and to provide new facilities, the need for which is generated by new development;

**2.** A schedule of second priority (years 8-14) year-by-year capital improvements that the County has adopted to continue to reduce existing deficiencies, remain

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current with needed replacements, repairs and maintenance, and to provide new facilities, the need for which is generated by new development, which will be used as the base set of facilities to determine the second seven year schedule of development fees;

**3.** A final schedule of third priority (years 15-20) capital improvements that the County has adopted to continue to reduce existing deficiencies, remain current with needed replacements, repairs and maintenance, and to provide new facilities, the need for which is generated by new development, which will be used as the base set of facilities to determine the third six year schedule of development fees; and

**4.** A project description and general location;

**12.3.4.2.** The CIP will be updated as necessary or at a minimum no less frequently than every two years.

## 12.4. DEVELOPMENT AGREEMENTS.

**12.4.1. When Used.** This subsection provides guidelines for use of voluntary development agreements. A voluntary development agreement may be used for any discretionary development approval that requires an AFPA as set forth in Tables 4-1 and 6-1. Any applicant may request a development agreement for any development even if not specified in tables 4-1 and 6-1.

**12.4.2. Purpose.** The purpose for entering into a voluntary development agreement is to provide a mechanism for the County, owner/applicants and third party governmental entities to form agreements, binding on all parties, successors and assigns, regarding implementation of development orders granting concurrent applications for development approval.

**12.4.3. In General.** A voluntary development agreement is a contract between the County and an applicant which governs, in a comprehensive way, development of a property. A voluntary development agreement provides assurance to the applicant that the proposed development will not be subject to subsequent amendments to the SLDC. A voluntary development agreement memorializes agreements concerning public services and facilities to be provided. And, a voluntary development agreement includes conditions and mitigation measures that must be met to assure that the proposed development does not have unacceptable impacts on neighboring properties, infrastructure or services. A voluntary development agreement shall contain agreements concerning phasing of a project, vesting, the timing of the construction of public improvements, the applicant's contribution toward funding system-wide community improvements, and other conditions.

**12.4.4. Contents.** A voluntary development agreement may address some or all of the following topics, however, in all cases, a proposed development shall use the form of agreement provided by the County Attorney, and shall be approved as to form by the County Attorney before being executed by the Administrator or Board, as appropriate (see subsection 12.4.5.):

**12.4.4.1.** resolution of potential legal disputes prior to civil litigation;

**12.4.4.2.** resolution of pending civil litigation through settlement development agreements;

**12.4.4.3.** vesting;

**12.4.4.4.** land uses;

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**12.4.4.5.** development planning;

**12.4.4.6.** green development design and improvement standards;

**12.4.4.7.** conditions and mitigation requirements;

**12.4.4.8.** financing mechanisms, including dedications, development fees, public and private utility rates, charges and fees, creation of assessment and public improvement districts for the construction, operation and ongoing service and maintenance of infrastructure and public services;

**12.4.4.9.** preservation of open space, scenic vistas, trails, and environmentally sensitive lands;

**12.4.4.10.** use of solar and wind renewable energy systems;

**12.4.4.11.** mechanisms for the financing of all capital facilities and public services;

**12.4.4.12.** mechanisms for assuring that the service, operation and maintenance costs of facilities required by the County's development approvals are proportionally assessed to the development project owner, successors, assigns or to the applicant;

**12.4.4.13.** any other topic of relevance to an application for a development permit; and

**12.4.4.14.** the proposed agreement shall include all of the following terms:

**1.** the names of all parties to the voluntary development agreement;

**2.** a detailed description of the project which is the subject of the voluntary development agreement, including a description of all phases to which the agreement will apply with timetables, costs, and contingencies;

**3.** detailed plats or maps of the proposed development;

**4.** detailed maps of the proposed uses within the development and, to the extent uses will change as development progresses, clear and accurate mapping of the changes over time;

**5.** a statement detailing how the voluntary development agreement is and is not consistent with SLDC, Official Map, CIP, or other County ordinances or regulations, or state or federal law;

**6.** the effective date of the voluntary development agreement;

**7.** any other agreed terms concerning enforcement, including but not limited to, a mandatory provision within the voluntary development agreement requiring the parties to submit disputes to mediation prior to commencement of an administrative enforcement or civil action. Revocation or termination of a voluntary development agreement shall be in accordance with the procedures set forth in this chapter, which shall be incorporated into the terms of the voluntary development agreement;

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**8.** the phasing of the project and coordination of the provision of adequate public facilities and services with each phase;

**9.** the identification of land or public facilities to be dedicated, constructed or financed by the applicant, and the designation of such land and facilities as CIP, public or private utility, school, affordable housing, assessment and public improvement district projects, systems or subsystems improvements;

**10.** adequate security for the development of facilities and services for each phase of the development;

**11.** a description of the development project's proportionate share of the total system and subsystem improvements required to be dedicated, constructed or financed by the applicant or the development project;

**12.** a complete description of any proposed public financing of improvements (PIDs, County Improvement Districts, public bonding, road maintenance districts, etc.);

**13.** a description of offsets to dedications, development fees, money-in-lieu of land, affordable housing fees, assessments, excise taxes, utility rates, fees or charges otherwise due from the project;

**14.** a complete description of any financial instruments to be used to finance public facilities and services, and the impact of those on the County, its taxpayers, and residents in the proposed development;

**15.** a complete description of expected reimbursements from future development projects, if applicable, to the applicant and its successors or assigns, for the amount of any contribution in excess of the proportionate share of needs generated by the development project; and

**16.** with respect to a proposed advancement of public facilities and services, legally binding assurances that the public facilities or services will be constructed notwithstanding subsequent sale, transfer, assignment or lease of the property; and

**17.** with respect to a proposed advancement of public facilities and services, a finding that the planned public facilities or services are included within the CIP for the year in which construction of the project is scheduled, or the applicant commits to advancing the public facilities or services; an estimate of the total cost of the public facilities or services; a schedule for commencement and completion of construction of the planned facilities or services with specific target dates for multi-phase or large-scale capital improvements projects; a statement that the planned public facility or service is consistent with the timing and priorities set forth in the CIP; a statement that the planned public facilities or services are consistent with all sections of the SLDC relating to the Sustainable Design and Improvement standards and requirements of the public facility; and if the planned capital improvement will provide capacity exceeding the demand generated by the proposed development, reimbursement may be offered to the applicant in the year in which the capital facility would have been built as shown in the prioritized CIP for the pro rata cost of the incremental capacity attributable to the proposed development. Any such commitment shall be memorialized in an agreement to be binding and

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**12.4.4.15.** if a contribution from the County is to be provided pursuant to a voluntary development agreement to upgrade infrastructure that is not meeting the adopted LOS

**12.4.5. Approval.** A voluntary development agreement, once in draft form and having been approved by the Administrator and the County Attorney, is adopted by the Board after notice and hearing. The Board may, in its legislative discretion, authorize the Administrator to enter into a voluntary development agreement so long as the approval sought is ministerial, not legislative or quasi-judicial.

**12.4.6. Limitations.** A voluntary development agreement has some inherent limitations, including the following:

**12.4.6.1.** A voluntary development agreement is not a substitute for, nor an alternative to, required development approval; and

**12.4.6.2.** A development agreement may be used to document agreement concerning the advancement of public facilities and services that incorporates the pre-existing requirements and standards set forth in the SLDC. Such a provision in a development shall set forth obligations of the applicant that are roughly proportional to the need for facilities and services determined to exist, based on the SRAs and the application of submittal data to the levels of service and other factors set forth in the SLDC.

**12.4.7. Criteria.** The Board may enter into a voluntary development agreement pursuant to this section only if it finds that:

**12.4.7.1.** the voluntary development agreement has been duly processed concurrently with the application or applications for development approval to which it is attached, in accordance with the processing provisions of the SLDC;

**12.4.7.2.** the development project to which the voluntary development agreement pertains is consistent with the SLDC, the Official Map and the CIP;

**12.4.7.3.** the applicant has agreed to provide facilities and services in order to meet the adequate public facility and services requirements of the SLDC;

**12.4.7.4.** the proposed agreement is consistent with the SLDC and the provisions of other County ordinances and regulations and applicable state and federal law; and

**12.4.7.5.** the proposed agreement is enforceable by the County and any third party beneficiary to the voluntary development agreement, and by the applicant and the applicant's assigns and successors in interest by civil judicial action, except that if an administrative revocation or enforcement action for violation of the voluntary development agreement has been initiated by the County and is pending, any and all enforcement or disputes shall be determined in the administrative proceedings prior to appeal or commencement of a civil action.

**12.4.8. Force and Effect of Voluntary Development Agreements.** Unless a voluntary development agreement provides for requirements greater than those required by the SLDC and other ordinances, plans and regulations, development and use of the land that is the subject of a voluntary development agreement shall occur according to the terms, conditions, and other provisions of the agreement, consistent with the SLDC and other ordinances, plans and regulations.

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## 12.5. DEVELOPMENT FEES.

**12.5.1.** Authority. The County is authorized to impose development or development fees under the Development Fees Act, NMSA 1978, § 5-8-1 et seq. The County shall only impose development fees consistent with the Act.

**12.5.2.** General. This section provides for the assessment and collection of development fees development in order to recoup the costs of capital improvements or facility expansions necessitated by and attributable to the development. The County's capital improvements plan ("CIP"), as amended from time to time, identifies capital improvements or facility expansions for which development fees may be assessed. No specific development fees are adopted or deemed to be adopted by this Code; instead, a schedule of impact fees will be considered separately and adopted by the Board through resolution. Once adopted by resolution, the development fees set out in the schedule shall be the development fees.

**12.5.3. Existing Deficiencies.** The County is responsible for and will meet all capital improvement needs associated with existing deficiencies. Only capital improvement needs that are generated by new development will be paid by development fees. Subject to the provisions of the SLDC and the Development Fees Act, development fees shall be spent on new, expanded, or enlarged capital facilities and equipment, and may include amortized charges, lump sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described in this section, the need for which is attributable to new development, and which benefits those developments that pay the fees.

**12.5.4. Purpose and Intent.** The purpose of this subsection is to implement and comply with the New Mexico Development Fees Act, NMSA 1978, § 5-8-1 *et seq.* and shall be interpreted consistent therewith. The intent of this subsection is to promote the health, safety, and general welfare of the residents of the County by:

**12.5.4.1.** Assessing and collecting development fees for financing new capital facilities in an amount based upon appropriate service units needed to serve new development in the County;

**12.5.4.2.** Requiring new development to bear an amount not to exceed its roughly proportionate share of the costs related to the capital improvements and facility expansions attributable to such new development.

**12.5.4.3.** Establishing County legislative procedures and substantive standards for the adoption of land use assumptions, a CIP and criteria needed for the imposition, calculation, collection, expenditure, and administration of development fees assessed on new development pursuant to the requirements of this Chapter 12 and the Development Fees Act;

**12.5.4.4.** Requiring all new residential and non-residential development to pay the development fees assessed under this subsection, the need for which is reasonably necessitated and attributable to such new development;

**12.5.4.5.** Providing one of the alternative means of financing the first seven years of public facilities identified in the CIP needed to accommodate the off-site needs attributable to new development in a proportional and timely manner;

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**12.5.4.6.** Ensuring that development paying development fees receives a reasonable and direct benefit from the appropriation of development fee funds for CIP facilities provided to meet the needs attributable to such development;

**12.5.4.7.** Implementing the SGMP and the CIP by ensuring that adequate public facilities are available in a timely and well-planned manner; and, that public facilities, the need for which is attributable to new such development, meet the sustainable design and improvement standards of Chapter 7; and

**12.5.4.8.** Applying the legal standards and criteria of the Development Fees Act, NMSA 1978, § 5-8-1 et seq.

**12.5.5.** Applicability. This section shall be applicable to all development where more than five (5) lots are created either as a result of a land division or a subdivision, and shall apply uniformly within each service area.

**12.5.6.** In General. This section constitutes the legislative, procedural and substantive requirements and standards by which development fees shall be calculated, assessed and collected, pursuant to, the Development Fees Act, NMSA 1978 § 5-8-1 et seq. Each individual development fee shall be assessed to new development as a condition to the development order granting discretionary development approval. The provisions of this subsection shall not be construed to limit the power of the County to use any other methods or powers otherwise available for accomplishing the purposes set forth in this section, either in substitution or in conjunction with this subsection, provided that such methods or powers are not inconsistent with or prohibited by the SLDC or the Development Fees Act.

**12.5.7. Legislative Findings, Conclusions and Determinations.** The Board hereby finds and determines that:

**12.5.7.1.** The County will engage a qualified professional to prepare the CIP by service area and countywide, pursuant to land use assumptions and the CIP needed to calculate the various development fees. The CIP and the development fees will be based on adopted land use assumptions and will follow the infrastructure capital improvement planning guidelines established by the New Mexico Department of Finance and Administration.

**12.5.7.2.** Pursuant to NMSA 1978, § 5-8-37, the Board shall by majority vote appoint an advisory committee to assist it in an advisory capacity in carrying out the development fees process. The advisory committee shall be a standing committee consisting of at least five (5) members, 40% of which shall be of the real estate, development or building industry. No members shall be employees or officials of municipal, county or other government. The advisory committee shall meet at the direction of the Board, and shall follow procedural rules established by the Board which shall require the advisory committee to complete various action within timelines established by the Development Fees Act. The functions of the advisory committee shall include:

**1.** Advising and assisting the County in adopting land use assumptions;

**2.** Reviewing the CIP and filing written comments;

**3.** Monitoring and evaluating implementation of the CIP;

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**4.** Filing annual written reports with respect to the progress of the CIP and report to the County any perceived inequities in implementing the plan or imposing the development fees;

**5.** Advising the County of the need to update or revise the land use assumptions, CIP and development fees; and

**6.** Other tasks the Board may direct the advisory committee to perform that are consistent with the Development Fees Act.

**12.5.8. Land Use Assumptions.**

**12.5.8.1.** The land use assumptions ("LUA") provide a projection of changes in land use densities, intensities and population within planning service areas over at least a five-year period. Prior to imposing an development fee, the Board will hold a public hearing to consider the LUA that will be used to develop a capital improvements plan related to the proposed development fee.

**12.5.8.2.** After adoption of initial LUA:

**1.** The County shall update the land use assumptions and CIP at least every five (5) years or sooner if deemed necessary. The initial five-year period begins on the day the CIP is adopted;

**2.** The advisory committee shall file its written comments with the Board on any proposed CIP, development fees or amendments to the land use assumptions, before the fifth business day before the date of the public hearing on the amendments;

**3.** Within thirty (30) days after the date of the public hearing on any proposed amendments, the Board shall approve, disapprove, revise or modify any such proposals;

**4.** Hearings on adopting land use assumptions, the CIP, and imposition of an development fee may be consolidated into a single hearing as permitted by § 5-8-29 of the Development Fees Act; and

**5.** No resolution approving the referenced proposals shall be adopted as an emergency measure.

**12.5.9. Definitive Tables.** The Board hereby finds and determines that appropriate and reasonable definitive tables have been established in the reports prepared by the qualified professionals specifying level or quantity of use, consumption, generation or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial and industrial.

**12.5.10. Projected Service Units.** The Board hereby finds and determines that the reports prepared by the qualified professionals appropriately and reasonably establish the total number of projected service units necessitated by and attributable to new development within each service area and countywide based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria.

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**12.5.11. Levels of Service.** The Board hereby finds and determines that the Levels of Service specified in Table 12-1 are appropriate and reasonable to establish levels of service.

**12.5.12. Prior Deficiencies.** The County is responsible for and will meet all capital improvement needs associated with prior deficiencies for existing development in the County as established by the levels of service adopted in the SLDC. Only capital improvement needs that are attributable to new development in accordance with applicable law will be paid by development fees. Development fees shall not exceed the cost of paying for a proportionate share of the cost of system improvements based upon service units needed to serve new development. Subject to the provisions of the SLDC and the Development Fees Act (NMSA 1978, § 5-8-1 et seq.), development fees shall be spent on new, expanded, or enlarged capital facilities and equipment attributable to the new developments.

**12.5.13. Additional Costs.** The Board hereby finds and determines that development fees, in addition to paying for infrastructure and services, shall also be used to pay the following costs:

**12.5.13.1.** The estimated costs and professional fees paid for preparing and updating the Capital Improvement Plan (CIP);

**12.5.13.2.** The costs and fees charged by the qualified professionals who are not employees of the County for services directly related to the construction of capital improvements or facility expansions; and

**12.5.13.3.** The administrative costs associated with this ordinance for County employees who are qualified professionals. Such administrative costs shall not exceed three percent (3%) of the total development fees collected, as provided by NMSA 1978, § 5-8-4.

**12.5.14. Capital Improvements Plan.** The Board hereby finds and determines that:

**12.5.14.1.** The capital improvements plan (CIP) appropriately and reasonably lists the growth-supporting projects that could be funded by development fees, and the CIP sets forth an appropriate and reasonable inventory of existing capital improvements deficiencies and growth needs, planned capital projects and sources of funding for these projects which sources include revenues other than development fees;

**12.5.14.2.** The CIP reasonably and appropriately relates to the allocation of a fair share of the costs of new or expanded capital facilities to be borne by new users of such facilities in the form of development fees; and

**12.5.14.3.** The CIP shall be updated every five (5) years after an initial CIP is adopted or sooner if deemed necessary. The CIP may be considered by the Advisory Committee and Board in adopting a CIP-based development fee program pursuant to the Development Fees Act.

**12.5.15. Establishment of Service Areas.** The Board hereby finds and determines that service areas for the development fees are established as follows:

**12.5.15.1. Roadways.** The Road Maintenance Districts established by the Board are the service areas for roadways.

**12.5.15.2. Potable Water and Waste Water.** The geographic areas designated as the service area of the Santa Fe County Water and Waste Water Utility shall be the designated service areas for potable water and liquid waste.

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**12.5.15.3. Law Enforcement.** The entire unincorporated area of the County shall be the service area for law enforcement.

**12.5.15.4. Fire and Rescue.** The combined areas of the Santa Fe County fire districts shall be the service area for fire and rescue services.

**12.5.15.5. Parks and Recreation Areas.** The unincorporated area of Santa Fe County shall be the service area for county parks.

**12.5.15.6. Open Spaces.** The entire unincorporated area of Santa Fe County shall be the service area for open spaces.

**12.5.15.7. Trails.** The entire unincorporated area of Santa Fe County shall be the service area for trails.

**12.5.15.8. Trailheads.** The entire unincorporated area of Santa Fe County shall be the service area for trailheads.

**12.5.16. Public Interest.**

**12.5.16.1.** The Board, after careful consideration of the matter, hereby finds and declares that it is in the best public interest of the health, safety and general welfare of the County and its residents to assess development fees upon new development in order to finance capital facilities in the designated service areas for which demand is attributable to the new development.

**12.5.16.2.** The Board further finds and declares that development fees provide a reasonable method of assessing new development to ensure that such new development pays a proportionate share of the costs of capital facilities that are attributable to the new development in accordance with applicable law;

**12.5.16.3.** The Board further finds and declares that such development fees are equitable, and impose a fair and reasonable assessment on new development by requiring that new development pay a portion of the cost for facilities the need for which new development is attributable, and deems it advisable to adopt this subsection as set forth;

**12.5.16.4.** The Board further finds and declares that there exists a reasonable relationship between the capital costs of providing capital facilities at the level of service adopted and the development fees imposed on development under this ordinance;

**12.5.16.5.** The Board further finds and declares that there exists a reasonable relationship between the development fees to be collected pursuant to this section and the expenditure of those funds on capital costs related to capital facilities, the need for which attributable to new development;

**12.5.16.6.** The Board further finds and declares that this subsection is consistent with the procedural and substantive requirements of the Development Fees Act (NMSA 1978, § 5-8-1 *et seq.*); and

**12.5.16.7.** The Board further finds and declares that new development shall be presumed to impose maximum development on the necessary public capital facilities at the level of service established by this ordinance.

**12.5.17. Items Payable and Not Payable by Development Fee.**

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**12.5.17.1. Payable.** development fees pursuant to this section shall be imposed upon all new residential and non-residential development to pay the fair and proportionate share of the costs of capital improvements, as identified in the first seven (7) years of the CIP, the need for which is attributable to such development. New development shall pay an amount not to exceed its proportionate share of the capital costs related to the additional capital facilities attributable to that new development.

**12.5.17.2. Not Payable.** No development fees shall be imposed or used to pay for:

**1.** Construction, acquisition or expansion of public facilities or assets that are not capital improvements or facility expansions identified in the CIP;

**2.** Repair, operation or maintenance of existing or new capital improvements or facility expansions;

**3.** Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

**4.** Upgrading, updating, expanding or replacing existing capital improvements to provide better service to existing development;

**5.** General administrative and operating costs of the County except for those administrative costs permitted by subsection 12.5.13.3 herein;

**6.** Principal payments or debt service charges on bonds or other indebtedness; or

**7.** Libraries, community centers, schools, projects for economic development and employment growth, affordable housing or apparatus and equipment of any kind, except capital improvements as defined in NMSA 1978, § 5-8-2 of the Development Fees Act.

**12.5.17.3. Funding and Curing Deficiencies.** The funding and provision of capital facilities necessary to cure any deficiencies that may exist shall be provided by the County using independent funding sources allocated for such facilities, and no development fees. Such funding sources may include, but are not limited to, state, federal funds, grants, public and private utility rates, charges and fees, the general fund, general obligation bonds, public improvement district taxes, assessments and fees, and redevelopment district fees, taxes, and assessments.

**12.5.18. Imposition of Development Fees.**

**12.5.18.1.** Development shall pay development fees in the manner specified in this subsection of the SLDC in an amount specified by separate resolution of the Board as specified in subsection 12.5.2. No development permit shall be issued for development unless and until the development fees are assessed and collected pursuant to this section.

**12.5.18.2.** Payment of development fees specified in this section shall constitute full and complete payment of the project's proportionate share of off-site facilities and services for which such development fee was paid and shall constitute compliance with the requirements of this section.

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**12.5.18.3.** Nothing in the SLDC shall prevent the County from requiring construction of reasonable facilities and service necessitated by and attributable to development as a condition of development approval or pursuant to a voluntary development agreement if facilities and services are not available.

**12.5.18.4.** The development fees, once established forth in a Fee Schedule made a part of a resolution of the Board, are imposed upon development in the County to which the SLDC is applicable.

**12.5.19. Calculation, Assessment and Collection of Development Fees.**

**12.5.19.1.** Assessments of development fees shall be in writing and shall be made at the time that the first discretionary development approval is granted by development order, and payment of an development fee shall occur on or prior to the date of issuance of a development permit. The assessment shall be valid if not paid for a period of five (5) years from the date of approval of the development order.

**12.5.19.2.** After the expiration of the five-year period described in the previous paragraph, the County shall adjust the assessed development fee to the level of the then-current development fees. Notwithstanding the provisions of this subsection, the assessment of development fees shall be revised if the number of service units in the specific development project increases, provided that such revision shall be limited to the development fees for the additional service units.

**12.5.19.3.** Any person applying for a development permit on a parcel that received development approval prior to the enactment of the SLDC but for which a development permit has not been assessed or paid, shall be assessed and shall pay development fees at the time of issuance of the development permit; provided, however, that any such property that received development approval on or before 1993, the effective date of the Development Fees Act, shall not be required to pay development fees.

**12.5.19.4.** After assessment and payment of development fees attributable to development, or following execution of a development agreement for payment of development fees pursuant to section 12.5 of the SLDC, additional development fees or increases in the amount of the development fees shall not be assessed for any reason unless the number of service units to be developed increases. In the event of an increase in the number of service units, the new development fees to be imposed shall be limited to the amount attributable to the additional service units.

**12.5.19.5.** Development fees shall be used to pay for capital improvements or facilities expansions that have been identified in the CIP, so long as the County commits to complete construction within seven (7) years and to have the facility and service available within a reasonable period of time after completion of construction, considering the type of capital improvement or facility expansion to be constructed.

**12.5.19.6.** The County and the applicant may enter into a voluntary development agreement that provides in the case if capital improvements or facility expansions are advanced, constructed, or financed by an applicant, then the costs incurred or funds advanced will be credited against the development fees otherwise due from the development at the time of development permit issuance; or, the County may agree to reimburse the owner for such costs from development fees paid from other developments that will use such capital improvements or facility expansions. Such other development fees shall be collected and reimbursed to the property owner of record of the new

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development at the time such other discretionary development approvals are recorded or development fees are paid by the other development, whichever is earliest.

**12.5.19.7.** The time period set forth in this section may be extended, provided the County obtains a performance bond, letter of credit, or similar surety securing performance of the obligation to construct the capital improvements or facility expansions, but in no event shall the time period be extended longer than seven (7) years from commencement of construction of the capital improvements or facility expansion for which development fees have been collected. This section shall constitute written procedures ensuring that the owner of a new development shall not lose the value of the credits and that a refund for the development fees paid shall be made as provided in this subsection.

**12.5.19.8.** The Administrator shall calculate and assess development fees as follows:

**1.** Determine the applicable service area;

**2.** Determine the applicable land use category;

**3.** Verify the number of service units (dwelling units, hotel/motel/bed & breakfast rooms, RV or campsites) or the amount of gross floor area (whichever is applicable) in the development; and

**4.** Multiply the number of dwelling units or the amount of gross floor area, whichever is applicable, by the applicable development fees from the development fee schedule adopted by the Board.

**5.** If the assessment occurs at the time of subdivision plat or land division plat approval, the assessment shall be based on the applicable fee schedule.

**6.** If an application proposes a use that does not directly match an existing land use category upon which fees are based, the Administrator shall assign the proposed use to the existing land use category that most closely resembles the proposed use.

**7.** When new development for which an application for a development permit has been made includes two or more buildings, structures or other land uses in any combination, including two or more uses within a building or structure, the total development fee assessment shall be the sum of the fees for each and every building, structure, or use, including each and every use within the building or structure.

**8.** When a change of use, plat or re-plat, redevelopment or modification of an existing use or building for which development fees have been paid previously and a development permit is required for the change of use, plat or re-plat, redevelopment or modification, the development fee shall be based on the difference between the development fee calculated for the previous use and the development fee calculated for the proposed use. Should a redevelopment or modification of an existing use or building that requires the issuance of a development permit but does not involve a change in use result in a net increase in gross floor area, the impact fee shall be based on the net increase, if the service units are calculated on gross floor area. Should a change of use, redevelopment or modification of an existing use or building result in a net decrease in gross floor area or calculated development fee, no refund or credit for past development fees paid shall be made.

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**9.** In addition to the cost of new or expanded system improvements needed to serve new development, the development fee shall also include the proportionate cost of existing system improvements, but only to the extent that such facilities have excess capacity and new development as well as existing development will be served by such facilities.

**12.5.19.9.** The Administrator shall retain a record of development fee assessments. A copy shall be provided to the applicant on the forms prescribed by the County. A notice of development fees assessment for the site shall be recorded in the appropriate real property title records of the County Clerk.

**12.5.19.10.** Development fees shall be due and payable at the time of issuance of a development permit.

**12.5.20. Credits and Refunds.**

**12.5.20.1. Credits.** The County shall grant a credit against development fees imposed pursuant to the SLDC, as follows:

**1.** Credits shall be granted for the value of any on-site or off-site construction of improvements or contribution or dedication of real or personal property with off-site benefits and are not required to serve the new development, are not listed on the CIP, and are in excess of the standards required by the SLDC, and made by a developer or his predecessor in title or interest as a condition of development approval or pursuant to a voluntary development agreement with the County;

**2.** Such credit shall include the value of any dedication of land for parks, recreation areas, open space, trails and related areas or facilities or payments in lieu of that dedication; and dedication of rights of way or easements or construction or dedication of on-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks or curbs.

**3.** Credits shall only be granted for system improvements in the same category and within the same service area for which development fees are imposed pursuant to this subsection;

**4.** Credits shall only be granted for contributions, dedications or improvements accepted by the County. Cash contributions shall be deemed accepted when payment is received and accepted by the County. Land or easements shall be deemed accepted when conveyed or dedicated to and accepted by the County. All conveyances and dedications of land or easements shall be conveyed to the County free and clear of all liens, claims and encumbrances. Improvements shall be deemed accepted when the construction of the creditable improvement is complete and accepted by the County.

**5.** Notwithstanding the previous paragraph, the County may, by agreement, grant credits for system improvements which have not been completed if the applicant for such credits provides the County with acceptable security to ensure completion of the system improvements in the form of a performance bond, irrevocable letter of credit, or escrow agreement or other form of security payable to or for the benefit of the County in an amount determined by the Administrator to be equal to 120 percent of the estimated completion cost of the system improvements, including land acquisition costs and planning and design costs.

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The value of such system improvements for computing credits shall be their estimated completion cost, based on documentation acceptable to the County.

**6.** Credits shall not be granted for:

**a.** System improvements that fail to meet applicable County standards;

**b.** System improvements that are not in excess of the level of service established in the SLDC;

**c.** System improvements required by zoning, subdivision, or other County regulation intended to serve the development;

**d.** System improvements that are in excess of the level of service established in this ordinance unless such system improvements are listed on the CIP and are required as a condition of development approval; or

**e.** A study, analysis or report, or portion thereof, required by the County to determine the system improvements for a development project.

**7.** Voluntary development agreements for system improvements may be negotiated and entered into between the County and a developer, subject to the following:

**a.** A developer may offer to construct, contribute, dedicate or pay the cost of a system improvement included as a project in the CIP;

**b.** The County may accept such offer on terms satisfactory to the County;

**c.** The terms of the agreement shall be memorialized in a written agreement between the County and the developer prior to the issuance of a development permit;

**d.** The agreement shall establish the estimated value of required system improvements, the schedule for initiation and completion of the system improvements, a requirement that the system improvements be completed to accepted County standards as set forth in Chapter 7, and such other terms and conditions as deemed necessary by the County; and

**e.** The County shall review the system improvements plan, verify costs and time schedules, determine if the system improvements are eligible system improvements, determine if the completed improvement meets applicable County standards, calculate the applicable development fees otherwise due, determine the amount of the credits for such system improvements to be applied to the otherwise applicable development fees, and determine if excess credits are created.

**8**. Credits for system improvements shall be applied for as follows:

**a.** Credits shall be applied for no later than the time of application for a development permit, on forms provided by the County; as-built or record drawings shall be provided before a credit will be applied. Credits not applied for within such time period shall be deemed waived.

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**b.** Credits created pursuant to a voluntary development agreement shall be applied for no later than the time specified in the voluntary development agreement.

**c.** The value of credits and the calculation of excess credits shall be determined by Administrator, in writing.

**d.** The value of credits for system improvements shall be computed as follows: (i) the value of cash contributions shall be based on the face value of the cash payment at the time of payment to the County; (ii) the value of unimproved land or easements shall, at the option of the applicant, be the fair market value of the land or easement prior to any increase in value resulting from development approval demonstrated by an appraisal prepared by an appraiser acceptable to the County.

**e.** The acquisition cost of the land or easement to the developer or his/her predecessor in title or interest demonstrated by documentation acceptable to the County.

**f.** The value of system improvements shall, at the option of the applicant, be: (i) the fair market value of the completed system improvement at the time of acceptance by the County demonstrated by an appraisal prepared by an appraiser acceptable to the County that demonstrates the combined fair market value of land, easements or completed improvements at the time of acceptance by the County, less the increase in land value resulting from development approval; or (ii) the actual construction cost of the completed system improvement, including planning and design costs, demonstrated by documentation acceptable to the County.

**g.** The value of system studies shall be the cost of the study demonstrated by documentation acceptable to the County.

**h.** An applicant for credits shall be responsible for providing at his/her/its own expense the appraisals, construction and acquisition cost documentation and other documentation necessary for the valuation of credits by the Administrator. The County shall not be obligated to grant credits to any applicant who cannot provide such documentation in such form as the development fees administrator may require.

**i.** The Administrator may accept an appraisal that was prepared contemporaneously with the original contribution, dedication or construction of a system improvement if he/she determines that such appraisal is reasonably applicable to the computation of the credit due.

**j.** The Administrator retains the right to obtain, at the County's expense, additional engineering and construction cost estimates and/or property appraisals that may, at the Administrator's option, be used to determine the value of credits.

**k.** Credits granted for system improvements and system studies shall be applied as follows: (i) Credits shall be granted in the year the project appears in the CIP; (ii) Credits shall be applied first to offset the

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development fees otherwise due for the development project for which the credit was granted. If the value of the credit exceeds the development fees otherwise due, the excess credits shall become the property of the applicant, subject to the requirements of this subsection; (iii) Credits shall only be applied to offset development fees for the same category of system improvements, within the same service area for which the credit was granted. Credits shall not be used to offset development fees for other categories of system improvements or for other service areas.

**12.5.20.2. Refunds.**

**1.** Upon completion of the system improvements identified in the CIP, the County shall recalculate the development fee using the actual costs of the system improvements. If the development fee calculated based on actual costs is less than the impact fee paid, including any sources of funding not anticipated in the CIP, the County shall refund the difference if the difference exceeds the development fee paid by more than ten percent, based upon actual costs.

**2.** The County shall refund any development fee or part of it that is not spent within seven years after the date of payment.

**3.** A refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in NMSA 1978, § 56-8-3.

**4.** All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the development fees were paid by a governmental entity, payment shall be made to the governmental entity.

**12.5.21. Use of and Administration of the Development Fees Collected.**

**12.5.21.1.** Each development order granting discretionary development approval and assessing development fees upon a new development shall provide that all monies collected from such development fees shall be maintained in separate interest-bearing account that clearly identifies the new development owner and the category of system improvements within the various service areas for which the fees were collected. The County shall be entitled to retain up to three percent (3%) of the development fees collected annually to offset the permissible administrative costs associated with the collection and use of such funds. The County may issue bonds in such manner and subject to such limitations as may be provided by law in furtherance of the provision of system improvements. Funds pledged toward retirement of bonds for such projects may include development fees and other County revenues as may be allocated by the Board.

**12.5.21.2.** Interest earned on such development fees shall become part of the account on which it is earned and shall be subject to all the restrictions placed on the use of development fees under this section.

**12.5.21.3.** Development fees shall be spent only for the purposes for which the development fee was assessed as shown by the CIP for the purpose of planning, design, land acquisition, construction, expansion and development of system improvements for the service area from which the development fees were collected.

**12.5.21.4.** The records of the account into which development fees are deposited shall be open for public inspection and copying during ordinary business hours of the County.

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**12.5.21.5.** As part of its annual audit process, the County shall prepare an annual report for each account describing the development fees collected, encumbered and used during the preceding year by category of capital improvement and service area identified.

**12.5.21.6.** The Administrator shall establish and maintain accurate financial records for the development fees collected which shall clearly identify for each development fee payment, the payer of the development fee, the specific development project for which the fee was paid, the date of receipt of the development fee, the amount received, the category of capital improvement for which the fee was collected, and the applicable service area. The financial records shall show the disbursement of all development fees, including the date and purpose of each disbursement.

**12.5.22. Exemptions.**

**12.5.22.1.** The following types of new development shall be exempt from the development fees imposed pursuant to this ordinance:

**1.** Any addition or expansion to a building which does not increase the number of service units in the building.

**2.** Any accessory building for a subordinate or incidental use to a dwelling unit on residential property, which building does not constitute a dwelling unit.

**3.** Any reconstruction of a destroyed or partially destroyed building provided that the destruction of the building occurred for reasons other than by willful razing or demolition. The exemption only applies to the replacement of the previous facility. A change of land use or increase in dwelling units is subject to payment of development fees as provided in this section.

**12.5.22.2.** The applicant for an exemption from development fees shall have the burden of claiming and proving that a development project qualifies for any of the exemptions listed in this subsection. Such exemptions shall be granted or denied in writing by the Administrator.

**12.5.22.3.** An application for an exemption shall be made on the form provided by the Administrator. An application not filed before the issuance of a development permit shall be deemed waived.

**12.5.22.4.** The County may adopt administrative procedures and guidelines to implement exemptions granted pursuant to this section.

**12.5.23.** Independent Fee Determinations. An independent determination of development fees may be made as follows:

**12.5.23.1.** An applicant for development approval may elect to have an independent determination of the development fees due for the development project in accordance with this section. Any applicant who makes this election shall prepare and submit to the Administrator an independent fee study for the development project for which discretionary development approval is sought.

**12.5.23.2.** An applicant wishing to submit an independent study should notify the Administrator of such intent and the Administrator shall require the applicant to attend a pre-development approval application meeting with the Administrator to establish appropriate guidelines for the independent study. Documentation, substantive studies and

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process requirements reached at the pre-application meeting regarding methodology, required forms or documentation, or procedures shall be included in a written memorandum by the Administrator. A copy of this memorandum shall be sent to the applicant. The documentation, substantive studies and process requirements set out in the memorandum shall expire in thirty (30) days unless the applicant files with the Administrator a written acknowledgement receipt and acceptance of the memorandum within the thirty (30) day period.

**12.5.23.3.** All independent fee studies shall be prepared for review and submitted to the Administrator no later than at the time of application for the discretionary development approval. Any submission not so made shall be deemed waived.

**12.5.23.4.** Each independent fee study shall comply in all respects with the requirements of this section and be organized in a manner that will allow the Administrator to readily ascertain such compliance.

**12.5.23.5.** Each independent fee study shall comply with all other written specifications as may be required by the Administrator from time to time.

**12.5.23.6.** The Administrator shall determine the appropriate development fees based on the results of the independent fee study and the applicable development fee schedule.

**12.5.23.7.** A development fee calculated in accordance with this subsection and approved and certified in writing by the Administrator shall be valid for four years following the certification. Following such period, a new application for an independent fee study shall be made. Any change in the submitted development subdivision or site plan that in any material way affects said fee calculation shall void the certification of the fee.

**12.5.23.8.** The decision of the Planning Commission or Board shall, in all instances, be the final administrative decision and shall be subject to judicial review in accordance with applicable law.

**12.5.24. Effect of Development Fee on Zoning and Subdivision Regulations.**

**12.5.24.1.** This subsection shall not affect, in any manner, the permissible use of property, density of development, sustainable design and improvement standards and requirements, or any other aspect of the development of land or provision of capital improvements subject to the SLDC, which shall be operative and remain in full force and effect without limitation with respect to all such development.

**12.5.24.2.** The assessment of an development fee is additional and supplemental to, and not in substitution of, any non-financial requirements imposed by the County on the development of land or the issuance of development permits. Payment of the development fee shall not waive or otherwise alter compliance with the SLDC or other County requirements, ordinances and resolutions by which the County seeks to ensure fiscal integrity and the provision of adequate public facilities in conjunction with the development of land.

**12.5.25. Periodic Evaluation.** The Advisory Committee, the Planning Commission and the Board shall review, update and propose amendments to this subsection, the CIP, the land use assumptions and the development fees every five (5) years from the effective date of adoption of the SLDC. The Advisory Committee and Planning Commission shall file its written comments

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concerning any amendments with the Board. The Board shall take action on any proposed amendments consistent with the provisions of the Development Fees Act.

**12.6. NOTE ON PUBLIC FINANCING OF IMPROVEMENTS.** Public financing of improvements and services is available through the means described in the succeeding sections of the SLDC. A development has the option of providing all the necessary facilities and services in a development without any assistance from a source of public financing. However, if public financing is desired, a number of options are available, which are described. A development may utilize an appropriate source of funding to provide development infrastructure, as well as to address the impacts on County facilities and services identified in the SRAs.

**12.7. PUBLIC IMPROVEMENT DISTRICTS (PIDS).**

**12.7.1. Purposes.** This section is adopted in order to:

**12.7.1.1.** Protect the County from undue fiscal impact caused by sprawl development due to the continually expanding need of the County to provide infrastructure, services, operation, repair and replacement for needs generated by development at greater distances, with greater vehicle miles travelled and trip generation, accompanied by a drop in the level of service and efficiency in delivery;

**12.7.1.2.** Assure additional sources of revenue from the residents of development projects for on-site infrastructure construction, provision, service, operation, maintenance, repair and replacement, the need for which is generated by the development project;

**12.7.1.3.** Incentivize rain water capture, treatment and reuse and renewable energy solar and wind facilities through PID reimbursement to developers installing such systems, which will benefit the subsequent owners of land within the PID through lowering the future cost of electricity and water;

**12.7.1.4.** Reduce the cost to developers of meeting the SLDC's sustainable design and improvement requirements by placing a proportionate share of the cost of on-site improvements on the future occupants or residents of the development project; and

**12.7.1.5.** Authorize the following activities deemed essential to implement the purposes set forth above:

**1.** Planning, design, engineering, construction, acquisition or installation of public infrastructure, including the imposition of costs of applications, development fees and other fees, permits and approvals related to the construction, acquisition or installation of such infrastructure on the applicant for discretionary development approval;

**2.** Acquiring, converting, renovating or improving existing facilities and infrastructure, including facilities owned, leased or installed by an owner;

**3.** Acquiring interests in real property or water rights for public infrastructure, including interests of an owner;

**4.** Establishing, maintaining and replenishing reserves in order to secure payment of debt service on bonds;

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**5.** Funding and paying from bond proceeds interest accruing on bonds for a period not to exceed three years from their date of issuance;

**6.** Funding and paying from bond proceeds fiscal, financial and legal consultant fees, trustee fees, discount fees, district formation and election costs and all costs of issuance of bonds issued pursuant to the Public Improvement District Act, including, but not limited to, fees and costs for bond counsel, financial advisors, consultants and underwriters, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit and other credit enhancement costs and printing costs;

**7.** Providing for the timely payment of debt service on bonds or other indebtedness of the district;

**8.** Refinancing any outstanding bonds with new bonds, including through the formation of a new public improvement district; and

**9.** Incurring expenses of the district incident to and reasonably necessary to carry out the purposes specified in this section.

**12.7.2. Liberal Interpretation.** This section, being necessary for the health, safety and general welfare of the County and its inhabitants, shall be liberally construed to effect the purposes of the Public Improvement District Act, NMSA 1978, § 5-11-1 *et seq*. This section shall be construed as consistent with Resolution No. 2006-40 ("Adopting the Santa Fe County Public Improvement District Policy and Application Procedures for the Evaluation and Approval of Applications for the Formation of Public Improvement District in Santa Fe County"), as amended, so long as that resolution is in effect.

**12.7.3. Cumulative Authority and Creation of PIDs.**

**12.7.3.1. Cumulative Authority.** This section is adopted pursuant to the authority of the Public Improvement District Act, NMSA 1978, § 5-11-1 et seq., and shall be deemed to provide an additional and alternative method for the construction, financing, installation, maintenance and repair of public facilities and services authorized by that Act and shall be regarded as supplemental and additional to all other County powers conferred by other laws. This section is adopted to implement the provisions of the SGMP and other sections of the SLDC and shall not be regarded as in derogation of any powers now existing.

**12.7.3.2. Resolution Declaring Intention to Form District.** On presentation of a petition signed by the owners of at least twenty-five percent (25%) of the real property by assessed valuation proposed to be included in the PID, together with a general plan for the PID, the Board may adopt a resolution declaring its intention to form a PID to include contiguous or noncontiguous property, which shall be wholly within the corporate boundaries of the County. If the Board fails to act within ninety (90) days following presentation of a petition to create a PID, the petition shall be deemed to have been accepted by the Board, which shall adopt a resolution and hold a public hearing pursuant to this section. The resolution shall state and/or include the following:

**1.** The area or areas to be included in the PID;

**2.** The purposes for which the PID is to be formed;

**3.** A general plan for the PID to be subsequently filed with the County Clerk upon approval of the PID, which shall include a map depicting the boundaries

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and the real property proposed to be included, a general description of anticipated improvements and their locations, general cost estimates, proposed financing methods and anticipated tax levies, special levies or charges, and that may include possible alternatives, modifications or substitutions concerning locations, improvements, financing methods and other information;

**4.** The rate, method of apportionment and manner of collection of a special levy, if one is proposed, in sufficient detail to enable each owner or resident within the district to estimate the maximum amount of the proposed levy;

**5.** A notice of public hearing in conformity with the requirements of Chapter 4;

**6.** The place where written objections to the formation of the PID may be filed by an owner;

**7.** That formation of the district may result in the levy of property taxes or the imposition of special levies to pay the costs of public infrastructure constructed by the district and for their operation and maintenance and may result in the assessment of fees or charges to pay the cost of providing enhanced services;

**8.** A reference to the Public Improvement District Act NMSA 1978, § 5-11-1;

**9.** That the PID will be governed by the Board;

**10.** That, prior to holding a hearing on formation of the PID, a study of the feasibility and estimated costs of the improvements, services, enhanced services and other benefits proposed to be provided pursuant to the Public Improvement District Act NMSA 1978, § 5-11-1, be prepared by the applicant or the Administrator for consideration by the Board at its hearing on formation of the PID. The study shall substantially comply with the requirements of NMSA 1978, § 5-11-16. The PID may require that the persons petitioning for formation of the PID deposit, consistent with the requirements of Resolution No. 2006-40, with the Administrator an amount equal to the estimated costs of conducting the feasibility study and other estimated formation costs, to be reimbursed and financed pursuant to NMSA 1978, § 5-11-3 of the Public Improvement District Act;

**11.** The resolution shall direct that a hearing on formation of the district be scheduled and that notice be mailed and published as provided in NMSA 1978, § 5-11-4; and

**12.** Where 100% of the owners of the land to be included in the PID have acknowledged in the petition to form the PID that they approve of the formation of the PID, no notice of public hearing or the holding of a public hearing is required before the Board adopts a resolution creating the PID.

**12.7.4. Board of Directors.** The Board shall constitute the Board of Directors of any PID formed pursuant to this section. The Board shall keep the following records, which shall be open to public inspection: minutes of all meetings of the Board when acting for the PID; all resolutions; all PID accounts showing all money received and disbursed; the PID annual budget; and all other records required to be maintained by law. The Board shall appoint the County Clerk and County Treasurer to act as the clerk and treasurer for the PID.

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**12.7.5.** Implementation of the PID, SGMP, CIP, Official Map, SLDC, Area or Community Plans. Following formation of any PID, the Board shall administer in a reasonable manner and implement the PID general plan, the CIP, the SLDC, any area plan prepared by the developer for the PID or any applicable community plan for the public infrastructure improvements of the PID.

**12.7.6. Formation, Amendment and Dissolution of a PID.**

**12.7.6.1. Formation.** A PID shall be formed in compliance with the Public Improvement District Act.

**12.7.6.2. Dedication of Infrastructure and Land; Development Fee Credits.** Where a PID is established, all on-site public facilities shall be built by the applicant for the development project, and such facilities, together with the land upon which such facilities are situated, shall be dedicated to the established PID.

**12.7.6.3. Creation of Other PIDs.** The formation of a PID shall not prevent the subsequent establishment of similar PIDs or the improvement or assessment of land in the PID or the exercise by the County of any of its powers on the same basis as on all other land in its corporate boundaries.

**12.7.6.4. Amendment.**

**1.** Addition of New Area. At any time after adoption of a resolution creating a PID, an area may be added to the PID upon the approval of the owners of land in the proposed addition area and the resident qualified electors residing therein, as well as the owners of land in the PID and the PID resident qualified electors, in the same manner as required for the initial formation of a PID.

**2.** Deletion of Area. After the formation election, an area may be deleted from the PID only following a hearing on notice to the owners of land in the PID given in the manner prescribed for the formation hearing, adoption of a resolution of intention to do so by the Board, and voter approval by the owners and resident qualified electors as provided in NMSA 1978, § 5-11-6 and § 5-11-7, of the Public Improvement District Act. Lands within the PID that are subject to the lien of property taxes, special levies or other charges imposed pursuant to the Public Improvement District Act, NMSA 1978, § 5-11-6, shall not be deleted from the district while there are bonds outstanding that are payable by such taxes, special levies or charges.

**12.7.7. Perpetual Succession.** All PIDs shall have perpetual existence until terminated pursuant to NMSA 1978, § 5-11-24 of the Public Improvement District Act.

**12.7.8. Dissolution of a PID.** A PID shall be dissolved by the Board upon a determination that each of the following conditions exist:

**12.7.8.1.** All improvements owned by the PID have been, or provision has been made for all improvements to be, conveyed to the County;

**12.7.8.2.** All obligations of the PID pursuant to any voluntary development agreement with the County have been satisfied; and

**12.7.8.3.** All property in the PID that is subject to the lien of PID taxes or special levies shall remain subject to the lien for the payment of general obligation bonds and special levy bonds, notwithstanding dissolution of the PID. The PID shall not be dissolved if

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any revenue bonds of the PID remain outstanding unless a sufficient amount of money, together with investment income thereon, is available to make all payments due on the revenue bonds, either at maturity or prior redemption, and such money has been deposited with a trustee or escrow agent and pledged to the payment and redemption of the bonds. The PID may continue to operate after dissolution only as needed to collect money and make payments on any outstanding bonds.

**12.7.9. Recording Documents.** The Administrator shall file and record with the County Clerk the resolution ordering formation of the PID, the general plan of the PID and the canvass of any general obligation bond election. If the formation of the PID has been approved by at least a three-fourths majority of the votes cast at the election, the Board shall cause a copy of the resolution ordering formation of the PID to be delivered to the Administrator, County Assessor, County Clerk and to the local government division of the state department of finance and administration. A notice of the formation showing the number and date of the resolution and giving a description of the land included in the PID shall be recorded with the County clerk.

**12.7.10. Public Infrastructure Improvements.** Public infrastructure improvements include on-site improvements that directly or indirectly benefit the PID. Such improvements include necessary or incidental work, whether newly constructed, renovated or existing, and all necessary or desirable appurtenances, and may consist of any of the following:

**12.7.10.1.** drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

**12.7.10.2.** water systems for domestic, commercial, office, hotel or motel, industrial, municipal or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

**12.7.10.3.** highways, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

**12.7.10.4.** trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, ingress, egress and parking;

**12.7.10.5.** pedestrian malls, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

**12.7.10.6.** landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems;

**12.7.10.7.** public buildings, public safety facilities, fire protection, emergency response and law enforcement facilities;

**12.7.10.8.** electrical generation, transmission and distribution facilities;

**12.7.10.9.** natural gas distribution;

**12.7.10.10.** lighting systems;

**12.6.10.11.** cable or other telecommunications lines and related equipment;

**12.7.10.12.** traffic control systems and devices, including signals, controls, markings and signage;

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**12.7.10.13.** school sites and facilities with the consent of the governing board of the public school district for which the site or facility is to be acquired, constructed or renovated;

**12.7.10.14.** library and other public educational or cultural facilities;

**12.7.10.15.** equipment, vehicles, furnishings and other personally related to the items listed in this subsection; and

**12.7.10.16.** inspection, construction management and program management costs.

**12.7.11. Powers.** In addition to the powers otherwise granted to a PID pursuant to the Public Improvement District Act, the Board, in implementing the general plan of the PID, the SGMP, any area plan, community plan and the SLDC may:

**12.7.11.1.** enter into contracts and expend money for any public infrastructure purpose with respect to the PID;

**12.7.11.2.** enter into voluntary development agreements with municipalities, counties or other local government entities in connection with property located within the boundaries of the PID;

**12.7.11.3.** enter into intergovernmental agreements as provided in the Joint Powers Agreements Act NMSA 1978, §§ 5-11-1 to 5-11-7 for the planning, design, inspection, ownership, control, maintenance, operation or repair of public infrastructure or the provision of enhanced services by the County in the PID and any other purpose authorized by the Public Improvement District Act;

**12.7.11.4.** sell, lease or otherwise dispose of PID property if the sale, lease or conveyance is not a violation of the terms of any contract or bond covenant of the PID;

**12.7.11.5.** reimburse the County for providing enhanced services in the PID;

**12.7.11.6.** operate, maintain and repair public infrastructure;

**12.7.11.7.** establish, impose and collect special levies for the purposes of funding public infrastructure improvements or enhanced services;

**12.7.11.8.** employ staff, legal counsel and consultants;

**12.7.11.9.** reimburse the County for staff and consultant services and support facilities supplied by the County;

**12.7.11.10.** accept gifts or grants and incur and repay loans for any public infrastructure purpose;

**12.7.11.11.** enter into agreements with owners concerning the advance of money by owners for public infrastructure purposes or the granting of real property by the owner for public infrastructure purposes;

**12.7.11.12.** levy property taxes, impose special levies or fees and charges for any public infrastructure purpose on any real property located in the PID and, in conjunction with the levy of such taxes, fees and charges, set and collect administrative fees;

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**12.7.11.13.** pay the financial, legal and administrative costs of the PID;

**12.7.11.14.** enter into contracts, agreements and trust indentures to obtain credit enhancement or liquidity support for its bonds and process the issuance, registration, transfer and payment of its bonds and the disbursement and investment of proceeds of the bonds;

**12.7.11.15.** with the approval of the Board enter into agreements with persons outside of the PID to provide enhanced services to persons and property outside of the district; and

**12.7.11.16.** use public easements and rights of way in or across public property, roadways, highways, roads or other thoroughfares and other public easements and rights of way, whether in or out of the geographical limits of the PID or the county.

**12.7.12. Other Requirements.**

**12.7.12.1. Public Lands.** Public infrastructure improvements other than personalty may be located only in or on lands, easements or rights of way owned by the federal government, the state, the county or the PID, whether in or out of the PID or the County.

**12.7.12.2. Reimbursement.** An agreement pursuant to §12.7.11.11 may include agreements to repay all or part of such advances, fees and charges from the proceeds of bonds if issued or from advances, fees and charges collected from other owners or users or those having a right to use any public infrastructure. A person does not have authority to compel the issuance or sale of the bonds of the PID or the exercise of any taxing power of the PID to make repayment under any agreement.

**12.7.12.3. Summary Participation.** The County, by resolution, pursuant to NMSA 1978, § 5-11-14, may summarily provide public services to, or participate in the costs of public infrastructure.

**12.7.13. Contracts.** The Board may enter into contracts to carry out any of the PID's authorized powers, including the planning, design, engineering, financing, construction and acquisition of public improvements for the PID, with a contractor, an owner or other person or entity, on such terms and with such persons as the Board determines to be appropriate.

**12.7.14. Statutory Bond, Notice, Hearing, Election and Debt Limitation Requirements.**

**12.7.14.1.** With regard to the issuance of general obligation, special levy or revenue bonds, or any taxes, fees, charges or assessments necessary to fund such bonds, the provisions of NMSA 1978, §§ 5-11-19 to 5-11-22 shall apply.

**12.7.14.2.** With regard to imposition of property taxes for the operation and maintenance expense of the PID, the provisions of NMSA 1978, §§ 5-11-23 shall apply.

**12.7.14.3.** With regard to notice and hearing, the requirements of NMSA 1978, §§ 5-11-4 to 5-11-5 shall apply.

**12.7.14.4.** With regard to notice and election, the requirements of NMSA 1978, §§ 5-11-6 to 5-11-7 shall apply.

**12.7.14.5.** With regard to debt limitations, the requirements of NMSA 1978, § 5-11-8 shall apply.

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**12.7.15. Feasibility Study.** Before constructing or acquiring any public infrastructure, the Board shall, pursuant to NMSA 1978, § 5-11-3 of the Public Improvement District Act, cause a study of the feasibility and benefits of the public infrastructure to be prepared, which shall include a description of the public infrastructure improvement to be constructed or acquired, the enhanced services to be provided and the estimated costs thereof, if any, and other information reasonably necessary to understand the project, a map showing, in general, the location of the project within the PID, an estimate of the cost to construct, acquire, operate and maintain the project, an estimated schedule for completion of the project, a map or description of the area to be benefited by the project, and a plan for financing the project. For public infrastructure improvement projects undertaken by a PID after formation, the Board shall hold a public hearing on the study and provide notice of the hearing by publication not less than two weeks in advance of the public hearing in a newspaper of general circulation. After the hearing, the Board may reject, amend or approve the report. If the report is amended substantially, a new hearing shall be held before approval. If the report is approved, the Board shall adopt a resolution approving the public infrastructure, identifying the areas benefitted the expected method of financing and an appropriate system of providing revenues to operate and maintain the project.

**12.7.16.** Financing Projects. The projects to be constructed or acquired as shown in the PID general plan may be financed from the following sources of revenue:

**12.7.16.1.** proceeds received from the sale of bonds of the PID;

**12.7.16.2.** money of the County contributed to the PID;

**12.7.16.3.** annual property taxes or special levies;

**12.7.16.4.** state or federal taxes, grants or contributions;

**12.7.16.5.** developer contributions or advances of public facilities;

**12.7.16.6.** user, landowner and other fees and charges; and

**12.7.16.7.** proceeds of loans or advances.

## 12.8. COUNTY IMPROVEMENT DISTRICTS.

**12.8.1. General.** A County Improvement District is a district established to finance specific capital improvements projects or a combination of projects and to assess residents within the district a proportional share of the cost of the capital improvements.

**12.8.2.** Liberal Interpretation. This section, being necessary for the health, safety and general welfare of the County and its inhabitants, shall be liberally construed to effect the purposes of the a County Improvement District pursuant to the County Improvement District Act, NMSA 1978, §§ 4-55A-1 through 4-55A-43 (as amended).

**12.8.3. Purposes.** This section is adopted in order to:

**12.8.3.1.** Protect the County from undue fiscal impact caused by sprawl development due to the continually expanding need of the County to provide infrastructure, services, operation, repair and replacement for needs generated by development at greater distances, with greater vehicle miles travelled and trip generation, accompanied by a drop in the level of service and efficiency in delivery;

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**12.8.3.2.** Assure additional sources of revenue from the residents of development projects for on-site infrastructure construction, provision, service, operation, maintenance, repair and replacement, the need for which is generated by the development project;

**12.8.3.3.** Incentivize rain water capture, treatment and reuse and renewable energy solar and wind facilities through reimbursement to developers installing such systems, which will benefit the subsequent owners through reduction in the future cost of electricity and water;

**12.8.3.4.** Reduce the cost to developers of meeting the SLDC's sustainable design and improvement requirements by placing a proportionate share of the cost of on-site improvements on the future occupants or residents of the development project; and

**12.8.3.5.** Authorize the following activities deemed essential to implement the purposes set forth above:

**1.** Constructing, acquiring, repairing or maintaining a public road, road, bridge, walkway, overpass, underpass, alley, curb, gutter or sidewalk;

**2.** Constructing, acquiring, repairing or maintaining a utility project for providing gas, water, electricity or telephone service;

**3.** Constructing, acquiring, repairing or maintaining a storm sewer project, sanitary sewer project or water project;

**4.** Constructing, acquiring, repairing or maintaining a flood control or storm drainage project;

**5.** Constructing, acquiring, repairing or maintaining a railroad spur, track, rail yard or switch project; or

**6.** Focusing on the following to support economic development or to address deficiencies arising from premature subdivision: (i) road right-of-way or road access control; (ii) drainage easements or rights-of-way; (iii) park, recreation or open-space areas; (iv) overall grading and drainage plans; and (v) adequate subdivision grading both on or off a public right-of-way.

**12.8.4.** Public Infrastructure Improvements. Public infrastructure improvements include on-site improvements that directly or indirectly benefit the PID. Such improvements include necessary or incidental work, whether newly constructed, renovated or existing, and all necessary or desirable appurtenances and consist of any of the following:

**12.8.4.1.** Drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

**12.8.4.2.** Water systems for domestic, commercial, office, hotel or motel, industrial, municipal or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

**12.8.4.3.** Highways, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

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**12.8.4.4.** Trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, ingress, egress and parking;

**12.8.4.5.** Pedestrian malls, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

**12.8.4.6.** Landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems;

**12.8.4.7.** Public buildings, public safety facilities, fire protection, emergency response and law enforcement facilities;

**12.8.4.8.** Electrical generation, transmission and distribution facilities;

**12.8.4.9.** Natural gas distribution;

**12.8.4.10.** Lighting systems;

**12.8.4.11.** Cable or other telecommunications lines and related equipment;

**12.8.4.12.** Traffic control systems and devices, including signals, controls, markings and signage;

**12.8.4.13.** School sites and facilities with the consent of the governing board of the public school district for which the site or facility is to be acquired, constructed or renovated;

**12.8.4.14.** Library and other public educational or cultural facilities;

**12.8.4.15.** Equipment, vehicles, furnishings and other personalty related to the items listed in this subsection; and

**12.8.4.16.** Inspection, construction management and program management costs.

**12.8.5. Cumulative Authority and Creation of a County Improvement District.**

**12.8.5.1. Cumulative Authority.** This section is adopted pursuant to the authority of the County Improvement District Act, NMSA 1978, § 4-55A-1 through § 4-55A-43 (as amended), and shall be deemed to provide an additional and alternative method for the construction, repair, maintenance and capital replacement of public facilities authorized by that Act and shall be regarded as supplemental and additional to all other County powers conferred by other laws. This section is adopted to implement the provisions of the SGMP and other sections of the SLDC and shall not be regarded as in derogation of any powers now existing.

**12.8.5.2. Creation of a County Improvement District.** A County Improvement District may be created by provisional order or petition method. To create a district by provisional order, an engineer is assigned to prepare a preliminary plan and cost estimate which, after review, forms the basis for provisional order of the Board of County Commissioners, which creates the district. NMSA 1978, § 4-55A-1 through § 4-55A-43 (as amended). To create a district by the petition method, owners of property in an area proposed for a district shall submit a petition to the Board of County Commissioners that is signed by the owners of 66 2/3% of the total assessed valuation within the territory to

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be assigned to the district. If accepted by the Board of County Commissioners, a resolution would be adopted creating the district.

**12.8.5.3. Governing Authority.** A County Improvement District shall be governed by the Board of County Commissioners.

**12.8.5.4. Territory Encompassed by the District.** A County Improvement District encompasses territory assigned by the Board of County Commissioners in a district formed by the provisional order method, and by the petition method in district formed pursuant to a petition. An improvement district may include areas within a municipality or another county as long as the municipality or county determines, by resolution, that the construction is in the best interest of the municipality or other county, that the assessment to property will be equal, and that as least 51% the owners of real property in the municipality or other county have not objected in writing to the improvements within thirty (30) days of receiving written notice of the adoption of a provisional order.

**12.8.5.5. Duration of the District.** A County Improvement District shall remain in effect until the project or projects for which the district was created are completed.

**12.8.5.6. Sources of Funding.**

**1.** Funding for a County Improvement District may include any or all of the following: an appropriation from the New Mexico Legislature; a budgeted appropriation from the Board of County Commissioners; a direct assessment of the costs of the improvement from owners of property within the district; revenue from a general obligation bond or revenue bond; an improvement district property tax; or any combination of the foregoing.

**2.** If the Board of County Commissioners advances the costs of capital improvements within a district, the County may subsequently assess the costs to the property owners over a reasonable period of time. In this event, a public hearing is required. Following the hearing, an assessment is levied proportionally against the benefiting property owners according to the property's valuation.

**3.** Persons within a County Improvement District may be assessed a property tax to pay for district improvements. The revenue from such an assessment shall only be expended for the sole purpose of repaying interest and principal on general obligation bonds issued to support the district.

**12.8.5.7.** Limitation on the Value of Improvements. The value of all improvements provided by a County Improvement District are limited to the total increase of value attributable (to that property) as a consequence of the improvements provided by the District. And, the principal amount of general obligation bonds issued to support an Improvement District is limited to twenty-five percent of the value of all properties within the district after completion of the project or projects to be financed.

## 12.9. COUNTY ROAD MAINTENANCE ASSESSMENT.

**12.9.1. General.** A County Road Maintenance Assessment is a financial tool to assist the County to perform road maintenance in subdivisions. Once an Assessment is created, the County maintains roads within the subdivision and assesses residents an annual fee equal; to the annual cost of maintenance.

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**12.9.2. Liberal Interpretation.** This section, being necessary for the health, safety and general welfare of the County and its inhabitants, shall be liberally construed to effect the purposes of NMSA 1978, § 67-4-20 through § 67-4-24.

**12.9.3. Purposes.** This section is adopted in order to:

**12.9.3.1.** Protect the County from undue fiscal impact caused by sprawl development due to the continually expanding need of the County to provide infrastructure, services, operation, repair and replacement for needs generated by development at greater distances, with greater vehicle miles travelled and trip generation, accompanied by a drop in the level of service and efficiency in delivery.

**12.9.3.2.** Assure additional sources of revenue from the residents of development projects for road maintenance in subdivisions, the need for which is generated by the development project:

**1.** Reduce the cost to developers of meeting the SLDC's sustainable design and improvement requirements by placing a proportionate share of the cost of on-site improvements on the future occupants or residents of the development project; and

**2.** Authorize the following activities deemed essential to implement the purposes set forth above:

**a.** Repairing or maintaining a public road, bridge, walkway, overpass, underpass, alley, curb, gutter or sidewalk;

**b.** Repairing or maintaining a storm sewer project, sanitary sewer project or water project associated with a County road; and

**c.** Constructing, acquiring, repairing or maintaining a flood control or storm drainage project.

**12.9.4. Cumulative Authority and Creation of a County Road Maintenance Assessment.**

**12.9.4.1. Cumulative Authority.** This section is adopted pursuant to the authority of NMSA 1978, § 67-4-20 through § 67-4-24, and shall be deemed to provide an additional and alternative method for the maintenance of County public roads authorized by said statute and shall be regarded as supplemental and additional to all other County powers conferred by other laws. This section is adopted to implement the provisions of the SGMP and other sections of the SLDC and shall not be regarded as in derogation of any powers now existing.

**12.9.4.2. Creation of a County Road Maintenance Assessment.** A County Road Maintenance Assessment is created by resolution of the Board of County Commissioners following a public hearing.

**12.9.4.3. Governing Authority.** A County Road Maintenance Assessment is governed by the Board of County Commissioners.

**12.9.4.4. Limitation on Assessment.** A County Road Maintenance Assessment is limited to the fifty percent (50%) of the actual cost of maintaining roads within a subdivision for the prior fiscal year, apportioned among residents in the subdivision in a

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reasonable manner, either using the respective lineal front footage of the property abutting a road subject to the assessment, or according to the assessed value of property.

**12.9.4.5. Bonds.** A County Road Maintenance Assessment is strictly for maintenance of roads within a subdivision, not for capital improvements. Bond proceeds may not be expended for maintenance.

## 12.10. GENERAL OBLIGATION BONDS.

**12.10.1. General.** A General Obligation Bond is a government bond (loan) that is authorized by the voters; the bond is repaid (principal and interest) from assessments against real and personal property in the County. Assessments are apportioned amount property owners according to the assessed value of property. Property owners pay a proportional share of the principal and interest on the bonds each year the bonds are outstanding. Payments are collected by the Treasurer along with the property tax.

**12.10.2. Liberal Interpretation.** This section, being necessary for the health, safety and general welfare of the County and its inhabitants, shall be liberally construed to effect the purposes of NMSA 1978, §§ 4-49-1 through 4-49-21 (as amended).

**12.10.3. Cumulative Authority for Issuance of a General Obligation Bond.**

**12.10.3.1. Cumulative Authority.** This section is adopted pursuant to the authority of NMSA 1978, §§ 4-49-1 through 4-49-21 (as amended), and shall be deemed to provide an additional and alternative method for providing public capital improvements such as courthouses, jails, bridges, hospitals, public libraries, facilities for county fairs, cultural facilities, purchasing books or other library resources, building juvenile detention homes, athletic facilities, parking structures, administrative facilities, facilities for housing equipment, repairing equipment and servicing equipment and sewerage facilities, constructing or repairing public roads and for construction and acquisition of water, sewer or sanitary landfill systems and airports. This section is adopted to implement the provisions of the SGMP and other sections of the SLDC and shall not be regarded as in derogation of any powers now existing.

**12.10.3.2. Creation of a County General Obligation Bond.** General Obligation Bonds are authorized by Ordinance of the Board of County Commissioners. At the time of enacting the bond ordinance, the Board shall call for an election on whether the ordinance should become effective. Anyone registered to vote in the County at the time the election is held, including persons living within the limits of a municipality and persons who do not own property, may vote on approval of the bond.

**12.10.3.3. Limitation.** A County General Obligation Bond may not be used for any items that are not authorized by Law. General obligation bonds are for capital infrastructure specified by Law and shall not be used for maintenance or for private property.

**12.10.3.4. Issuing Authority.** A County General Obligation Bond is issued by the Board of County Commissioners after approval by the voters.

**12.10.3.5. Financial Terms of General Obligation Bonds.** The interest rate paid on a general obligation bond depends on the County's bond rating and on market conditions; general obligation bonds are often repaid on very favorable terms as compared to conventional financing. Santa Fe County's bond rating is among the highest in the State of New Mexico, and interest paid to investors on obligations is very reasonable (low).

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Bonds are desirable because the interest paid is free from federal income tax under the Internal Revenue Code. Bonds are generally repaid over fifteen to twenty years, but can be repaid over thirty years if necessary, with different maturities.

## 12.11. REVENUE BONDS.

**12.11.1. General.** A revenue bond is a bond whose repayment is made from revenue of a County gross receipts tax or from some other specified revenue source. A revenue bond may be used to provide a variety of capital improvements, including the following:

**12.11.1.1.** Public buildings;

**12.11.1.2.** Public parking lots, structures or facilities;

**12.11.1.3.** Firefighting equipment;

**12.11.1.4.** Storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants, water utilities or other water, wastewater or related facilities, water rights;

**12.11.1.5.** Alleys, roads or bridges;

**12.11.1.6.** Airport facilities;

**12.11.1.7.** Open space;

**12.11.1.8.** Public parks, public recreational buildings or other public recreational facilities;

**12.11.1.9.** Solid waste disposal equipment, equipment for operation and maintenance of sanitary landfills, sanitary landfills, solid waste facilities; or

**12.11.1.10.** Public transit systems or any regional transit systems or facilities.

**12.11.2. Liberal Interpretation.** This section, being necessary for the health, safety and general welfare of the County and its inhabitants, shall be liberally construed to effect the purposes of NMSA 1978, § 4-62-1 et. seq.

**12.11.3. Creation of a County Revenue Bond.**

**12.11.3.1. Limitation.** A County Revenue Bond may not be used for any item that is not authorized by Law. General obligation bonds are for capital infrastructure specified by Law and shall not be used for maintenance or for private property.

**12.11.3.2. Issuing Authority, Procedure.** Sale of a revenue bond is authorized by Ordinance of the Board of County Commissioners. If four or more members of the Board vote in favor of the ordinance, it becomes effective as provided by Law. If the ordinance is adopted by three or fewer members, it becomes effective only after the question whether to issue revenue bonds is submitted to, and approved by, the voters.

**12.11.3.3. Financial Terms of County Revenue Bonds.** Like general obligation bonds, revenue bonds that are secured and repaid from tax revenue are repaid on

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favorable terms, though not quite as favorable as general obligation bonds. Revenue bonds that are secured from a specific revenue source (as opposed to the full faith and credit of the County) are repaid on somewhat less desirable terms because of the relatively greater risk. The interest paid to the investors on gross receipts tax revenue bonds is free from federal income tax under the Internal Revenue Code, but the interest on bonds relying on other revenue sources is usually taxable, although exempt from State taxes.

**12.11.3.4. Special Terms Applicable to Revenue Bonds Whose Repayment is Not Pledged Against Income from a Gross Receipts Tax.** A non-utility revenue producing project shall establish rates for services rendered, or create a lease or other agreements that will provide sufficient revenue to pay all the reasonable expenses of operation and principal and interest on revenue bonds as those amounts become due.

**12.11.4. Repayment.** A revenue bond is repaid and secured from a specified revenue source: (i) fire protection revenue bonds are secured and repaid from the county fire protection excise tax; (ii) environmental revenue bonds are secured and repaid from the county environmental services gross receipts tax; (iii) gasoline tax revenue bonds are secured and repaid from county gasoline tax; (iv) utility revenue bonds or joint utility revenue bonds net revenues from the operation of the utility; (v) project revenue bonds are secured and repaid from the net revenues from the operation of the revenue producing project for which the particular project revenue bonds are issued; (vi) fire district revenue bonds are secured and repaid from the Fire Protection Fund as provided in the statutes creating the Fire Protection Fund and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued; (vii) law enforcement protection revenue bonds are secured and repaid from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act; (viii) economic development gross receipts tax revenue bonds are secured and repaid from the county infrastructure gross receipts tax; and (ix) county education gross receipts tax revenue bonds are secured and repaid from the county education gross receipts tax revenue.

## 12.12. COUNTY HIGHWAY AND BRIDGE BOND.

**12.12.1. General.** A County is authorized to issue bonds for the construction and repair or roads and bridges within the County. County Highway and Bridge Bonds are secured by the full faith and credit of the County. Bonds are repaid by property owners in the County; property owners pay a proportional share of the principal and interest on the bonds each year the bonds are outstanding. Payments are collected by the Treasurer along with the property tax.

**12.12.2. Cumulative Authority for Issuance of a Highway and Bridge Bond.** This section is adopted pursuant to the authority of NMSA 1978, §§ 67-6-1 through 67-6-7 (as amended), and shall be deemed to provide an additional and alternative method for providing for the construction and repair of roads and bridges. This section is adopted to implement the provisions of the SGMP and other sections of the SLDC and shall not be regarded as in derogation of any powers now existing.

**12.12.3. Limitation.** The County is authorized to issue bonds for the construction and repair of roads and bridges in an amount not to exceed (taking into consideration all bonded indebtedness of the County) four percent of the value of taxable property within the County.

**12.12.4. Issuing Authority, Procedure.** A Highway and Bridge Bond is issued by the Board of County Commissioners, but is initiated by petition signed by not less than ten percent of the qualified electors in the County. Within thirty (30) days after receipt of such a petition, the Board of County Commissioners shall call a special election within ninety days on the question whether such bonds should be issued. Anyone registered to vote in the County at the time the

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election is held, including persons living within the limits of a municipality and persons who do not own property, and eligible to participate in the election on the question whether a Highway and Bridge Bond should be issued.

## 12.13. OFFICIAL MAP.

**12.13.1.** The Board hereby adopts the Official Map of the County as an appendix to the SLDC, and incorporated herein, which is hereby found and determined to be drawn from, and consistent with, the adopted SGMP. The Official Map may consist of a series of maps in order to assure legibility and comprehensibility.

**12.13.2.** The Official Map shall be conclusive with respect to the location, width and extent of public roads and highways, water and sewer lines, storm water structures, flood control structures, parks, trails and recreation areas, whether or not such roads, highways, water and sewer lines, storm water structures, flood control structures, parks, trails and recreation areas are improved or unimproved, in actual physical existence or proposed for future establishment or widening. Upon receiving an application for development approval, the Official Map shall reserve for future public use the aforesaid public roads, highways, water and sewer lines, storm water structures, flood control structures, parks, trails and recreation areas in the manner provided in this subsection.

**12.13.3.** The County shall not amend the layout, widening, changing the course of any public road, water and sewer line, storm water structure, flood control structure, park, trail, recreation area and scenic vista except by amendment of the Official Map.

**12.13.4.** For the purpose of preserving the integrity of the Official Map, no development approval or permit shall be issued for any building or structure proposed to lie in the bed of any public road, highway, water and sewer line, storm water structure, flood control structure, park, trail or recreation area shown on the official map, or shown on a recorded plat filed before adoption of the Official Map, except as herein provided.

**12.13.5.** Whenever the land subject to an approved development permit includes lands burdened by proposed public improvements or subject to a dedication shown on the Official Map and the public improvements shown on the Official Map are imposed on the land that is the subject of the development permit, the owner or applicant may file an application for beneficial use determination under the provisions of the SLDC on the basis that the improvement or dedication has deprived the owner or applicant of any use or return on the land taking into account the entirety of the land held in common ownership.

**12.13.6.** No permit for the erection of any building or structure shall be issued unless the tract, parcel or lot abuts a road or highway giving access to such proposed building or structure which road or highway is shown on the Official Map, or is a road on a plat duly recorded prior to the passage of the SLDC.

**12.13.7.** The Planning Commission shall review, update and propose amendments to the Official Map, to be adopted by the Board as necessary but not less than every two (2) years from the effective date of adoption of the SLDC. The Planning Commission shall file its written comments concerning any amendments with the Board. The Board shall take action on any proposed amendments consistent with the provisions of the adopted SGMP and CIP. Any public road, highway, water and sewer lines, storm water structures, flood control structures, parks, trail, recreation area and scenic vista depicted on recorded final subdivision plat, final site plan or within an adopted PID shall constitute a *de jure* amendment to the Official Map upon the plat's date of recordation.

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## 12.14. TRANSFER ~~OR PURCHASE~~ OF DEVELOPMENT RIGHTS.

**12.14.1. Purpose.** The purposes of this section are to:

**12.14.1.1.** promote preservation of agriculture, rural open space and character, scenic vistas, natural features, areas of special character or special historic, cultural or aesthetic interest or value, and environmental resources for the benefit of the residents of Santa Fe County. This section will also authorize an applicant or owner of any estate or interest in property to obtain a development order granting Transfer of Development Rights ("TDR") relief pursuant to a beneficial use and value determination, to transfer or sell one or more TDRs ~~or PDRs~~ where the development order authorizes relief in the nature of TDRs;

**12.14.1.2.** minimize the economic impact of environmental restrictions on property owners in designated sending areas, and allow increases in development potential in receiving areas that maintain the County's overall environmental carrying capacity as defined in the SGMP; ~~encourage the conservation, preservation and protection of environmentally sensitive lands and lands or structures of cultural, architectural, and historic significance;~~

**12.14.1.3.** ensure that owners of land to be preserved, conserved, or protected have reasonable use of their property by permitting a transfer or development rights to other properties;

**12.14.1.4.** provide a mechanism whereby development rights may be reliably transferred; and

**12.14.1.5.** authorize donations of development rights to the County or to the County ~~Land~~ Development Rights Bank.

**12.14.2. Applicability**. The procedures and regulations in this Chapter apply to the transfer of development rights from land qualifying as sending sites to land qualifying as receiving sites and/or to a transferee.

**12.14.~~2~~3. General Standards~~Rules~~.**

**12.14.3.1.** Development Rights may be sent:

1. from sending sites identified by a Community Overlay District;

2. from sites designated as an environmental and resource protection overlay, historic preservation overlay or agriculture overlay;

3. from sensitive environment lands; e. g. riparian habitats, endangered or threatened species habitat, archeological sites;

4. from traditional agricultural land;

5. from lands providing open space and preserving scenic vistas, natural features and areas of special character; and

6. through a transfer of development rights as part of a development order granting BUD relief.

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**12.14.3.2** Development Rights may not be sent:

1. from areas of required open space within a development;

2. from areas of required setbacks; and

3. from MU and PD districts within SDA-1.

**12.14.3.3** MU and PD districts shall not be both a sending and a receiving site.

**12.14.3.4.** Development rights may be used on receiving sites to provide additional density.

**12.14.4. Allocation of development rights.**

**12.14.4.1.** A development right shall be transferred only by a Development Right Certificate to which Santa Fe County is party. A conservation easement shall be placed on the sending area limiting future construction to the total number of development rights established by the zoning of the property minus:

**1.** all development rights transferred in accordance with this Chapter;

**2.** any development rights previously extinguished or limited as a result of a recorded covenant and plat against the property;

**3.** the number of development rights to be transferred by the proposed transaction;

**4.** the number of existing single-family dwellings or square footage of development allowed on the sending site.

**12.14.4.2** The conservation easement shall be created and identified on a survey plat clearly noting the development rights being sent from the parcel and the development restriction on the property. The plat shall be approved in accordance with Chapter 4.

**12.14.4.3.** Each transferor shall have the right to sever all or a portion of the rights to develop from the parcel in a sending site and to sell, trade, or barter all or a portion of those rights to a transferee.

**12.14.4.4.** Any transfer of development rights pursuant to this Chapter authorizes only an increase in maximum density and shall not alter or waive the development standards of the receiving site, nor shall it allow a use otherwise prohibited in the receiving zoning district, unless otherwise provided in the regulations applicable to the receiving site.

**12.14.4.5.** Transfer of development rights shall not be available for land restricted from development by covenant, easement or deed restriction.

**12.14.4.6.** Any transfer of development rights shall be recorded among the land records of Santa Fe County, New Mexico.

**12.14.4.7. Value of Transferable Development Rights**. The monetary value of transferred development rights is completely determined between the seller and buyer.

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**12.14.5. Sending Sites**

**12.14.5.1. Calculation of development rights.** The size of the sending areas shall be the size of the allowable base density of the zoning district. Sending areas must not be occupied by a habitable structure. The number of development rights associated with a sending property shall be the larger of:

**1.** One development right for each residential dwelling that could potentially be constructed on the sending property;

**2.** Sending areas shall meet the criteria for a sending site established by this Chapter 12.

**3.** Sending sites with valid irrigation water rights appurtenant to 90% or more of the sending site and with a consumptive use right of 1.5 acre-feet per acre or more, shall receive an additional unit of density for each area of irrigated land equivalent to the base density. This additional unit shall be made available only if the owner agrees to an enforceable restriction on the transfer of water rights acceptable to the County. The party sending the development rights shall bear the burden of demonstrating to the County's satisfaction the validity, amount and other elements of the water right.

**4.** If the sending site already has development on it, then the calculation of development rights pursuant to subsections 1 and 2 above shall be reduced to reflect such existing development, so that the resulting calculation reflects only additional potential development available on the property.

**12.14.6. Right to Transfer.**

**12.14.6.1.** A development right can be severed from an approved sending site only after a conservation easement for each right from an eligible sending site is placed on the property excluding any future development and requirement for preservation of the land for its sending value; or in the case of a property with multiple rights, limited future development reduced by the number of units transferred. The Development Right Certificate may be transferable from one person or entity to another.

**12.14.7. Receiving Sites.** In order to be eligible as a receiving site, a property must be located in one of the following areas or zoning districts:

**1.** Mixed Use (MU);

**2.** Planned Development (PD);

**3.** Industrial General (I),

4. Industrial Light (IL)

**4.** Commercial General (CG),

**5.** Designated receiving areas, or

**6.** A district rezoned to a higher density.

**12.14.7.2.** The receiving site must be served by public water and wastewater systems

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**12.14.7.3.** The receiving site must be accessible by public roads.

**12.14.7.4 TDR Unit Equivalencies.** TDRs may be used on the receiving site per the table below, or in combination with increases to height, lot coverage, and percent of nonresidential use.

**Table 12-2 Increased Units Allowed per TDR**

| Use | Additional Unit per TDR |
|---|---|
| Residential | 3 |
| Nonresidential | 5,000 sf |

**12.14.7.5** A property is not eligible as a receiving site if the transfer of development rights to the property would adversely impact regionally or locally significant historical resources or naturally sensitive areas.

**12.14.7.6** If a receiving site has any outstanding code violations and/or unpaid taxes, the owner shall resolve these violations, including any required abatement, restoration, or payment of penalties or taxes, before the property may be qualified as a receiving site in the transfer of development rights program.

**12.14.8. Development Approval Procedure.** The procedures for review and approval of an application including the use of transferred development rights shall be the same as those procedures that would apply if no transferred development rights were being used. A rezoning of the receiving site shall not be required for use of development rights consistent with the provisions of this Chapter unless it is part of a rezoning to a qualifying district. If the County approves the proposed development, the documentation of the approval shall include the numbers of the development right certificates necessary to support the number of residential dwelling units or nonresidential square footage in the development.

**12.14.8.1.** Development Right Certificates shall be acquired prior to recordation of a final plat .

**12.14.8.2.** The Development Rights Certificates will be extinguished at the time of the plat recordation.

**12.14.8.3.** A conceptual plan shall establish the number of TDRs required for the development. A receiving site may be established by a conceptual plan, including location, size and general development parameters. The normal subdivision and rezoning processes, if needed, will be required following the conceptual plan approval.

**12.14.9. Reinstitution of development rights.** Reinstitution of development right on a sending site is prohibited.

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~~**12.14.2.1.** A transfer or purchase of development rights for a specific parcel, tract or lot or to the County Land Bank may be authorized by the Board, consistent with a development order granting BUD relief. The County shall require that public notification be given to record owners of any areas that are subject of a TDR.~~

~~**12.14.2.2.** Once a transfer or purchase of development rights is approved, the Administrator shall issue to the owner of the receiving parcel a certificate assigning to the receiving parcel, and to all present and future heirs, successors and assigns, the development rights that the receiving parcel is entitled to through the transfer or purchase of development rights. The certificate shall be promptly recorded with the County Clerk. Such certificate shall describe the development rights transferred, refer to the deed transferring the development rights, and shall have a copy of the deed attached.~~

~~**12.14.2.3.** Once a transfer or purchase of development rights is approved, the owner of the sending parcel shall record a certificate prepared by the Administrator in the chain of title of the sending property a certificate that clearly states that all development rights inherent in the sending parcel have been voluntarily transferred to the receiving parcel in perpetuity. Such certificate shall include a copy of the certificate transferring development rights to the receiving property.~~

~~**12.14.2.4. Application.** A TDR shall be processed together with the underlying application.~~

~~**12.14.2.5. Application to DCIs.** Owners or lessees of property applying for an overlay zoning district classification for a development of countywide impact (DCI) shall only be authorized to transfer or sell development rights to another approved DCI. No property shall be designated as a receiving or sending property for a TDR from or to a DCI, unless the Board has concurrently granted transfer or purchase authority to both the sending and such receiving properties by development order.~~

~~**12.14.2.6. Jurisdictional Boundaries.** Pursuant to NMSA 1978, § 5-8-43(D) of the Development Fees Act, a TDR that crosses jurisdictional boundaries may be implemented pursuant to a joint powers agreement.~~

~~**12.14.3. Receiving or Sending Properties.**~~

~~**12.14.3.1.** Receiving areas within the County for receipt of development rights are properties located within SDA-1 and SDA-2.~~

~~**12.14.3.2.** Sending areas shall be limited to properties that have been classified by the Hearing Officer and the Board upon the issuance of a development order in a beneficial use determination proceeding. Sending areas may also consist of areas earmarked for preservation or sensitive lands such as agricultural land, wetlands, wildlife preservation areas, conservation areas, areas requiring cultural preservation, areas within traditional communities, open space, and other significant preservation areas identified on the Official Map. Sending areas are also those identified in Ordinance No. 2001-07, as amended. Sending Areas may also include areas in Traditional Communities and preferred open space areas as indicated on the Official Map.~~

~~**12.14.3.3.** A property identified as a sending area may develop the property consistent with then-applicable zoning regulations, or record a permanent easement preserving it without development in perpetuity.~~

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~~**12.14.3.4.** Receiving areas shall be located in approved areas and shall be an SDA-1 or SDA-2. Receiving areas shall be entitled to a bonus incentive of three (3) dwelling units per acre, or three (3) EDUs (equivalent dwelling units) per acre for non-residential sites. The receiving area shall, as appropriate, apply to amend its final subdivision plat or final site plan to accommodate the TDRs.~~**9**

**12.14.~~4~~10. Notification of the County Assessor.** The Assessor ~~shall~~may review and adjust the valuations in accordance with NMSA 1978, Art. 35-Art. 38, Chapter 7, "Property Tax Code" for purposes of the real property tax of the sending parcel and of the receiving parcel or parcels, if any, appropriately for the development rights extinguished or received. The County shall notify the County Assessor of the transfer or purchase of development rights within thirty (30) days of any of the following:

**12.14.~~4~~10.1.** the approval of a TDR;

**12.14.~~4~~10.2.** the issuance of a certificate for the TDRs;

**12.14.~~4.~~103.** purchase of development rights by the County for the County Land Bank;

**12.14.~~4.~~104.** the receipt by the County or the County Land Bank of a donation of development rights; and

**12.14.~~4~~10.5.** the sale, lease or conveyance of development rights by the County ~~Land~~ Development Rights Bank.

**12.14.~~5~~11. Establishment of the County ~~Land~~ Development Rights Bank.**

**12.14.~~5~~11.1.** The Board may establish a development rights bank, ~~otherwise referred to as the "County Land Bank," to be administered by the Administrator~~, subject to approval by the Board.

**12.14.~~5~~11.2.** The County Development Rights Bank Administrator shall have the power and authority to negotiate a purchase of development rights, subject to the approval of the Board.

**12.14.~~5~~11.3.** The County Development Rights~~Land~~ Bank may, for conservation or other purposes, hold indefinitely any development rights it possesses.

**12.14.6. Funding, Management.** The County Development Rights~~Land~~ Bank may receive funds from the proceeds of a voter approved open space bond issue; from the general fund of the County, whether through issuance of general obligation bonds or from general fund revenues; from the proceeds of the sale of development rights by the ~~TDR~~ County Development Rights Bank or any revenue from a public improvement district bond issue; or grants or donations from any source. A separate interest bearing trust fund shall be established for the County Development Rights ~~Land~~ Bank~~, supervised by the County Manager~~, into which all receipts shall be deposited and from which payments shall be made.

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# Chapter 13 – Housing and Fair Housing

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# CHAPTER 13 – HOUSING AND FAIR HOUSING

## 13.1. PURPOSE AND INTENT.

**13.1.1. Affordable Housing.** The purpose of this Section is to provide increased housing opportunities within a broad range of incomes for current and future residents of Santa Fe County. The intent is to encourage new development to achieve a reasonable balance between market rate housing and Affordable Housing through the use of incentives and other means to help offset potential costs.

**13.1.2. Fair Housing**. In addition to compliance with the requirements of this chapter of the SLDC set forth below, no applicant for or operator of a Project or development shall refuse to sell, rent, assign, lease or sublease or offer for sale, rental, lease, assignment or sublease any Affordable Housing to any person, or to refuse to negotiate for the sale, rental, lease, assignment or sublease of any Affordable Housing to any person, because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, family status, spousal affiliation, or physical or mental handicap, provided that the physical or mental handicap is unrelated to a person's ability to acquire or rent and maintain particular Affordable Housing accommodation. The prohibitions listed above shall also apply to all other sales or lease of housing in the County by any person or entity regardless of whether the housing is Affordable Housing. Discrimination in housing is prohibited and governed by the New Mexico Human Rights Act [§§ 28-1-1 to 28-1-15 NMSA 1978] and the federal Fair Housing Act of 1968 [Title VII of the Civil Rights Act of 1968, as amended, 42 US Code § 3601, et seq.]

## 13.2. AFFORDABLE HOUSING REQUIREMENTS.

**13.2.1. Applicability.** This Chapter shall apply to each Project within the unincorporated areas of central and northern Santa Fe County shown on Appendix E.

**13.2.1.1. Major and Minor Projects.** Of the total housing provided in any Major Project, no less than fifteen percent (15%) shall be Affordable Housing as defined herein. Of the total housing provided in any Minor Project, no less than eight percent (8%) shall be Affordable Housing as defined herein.

**13.2.1.2. Distribution of Affordable Units.** The distribution of the Affordable Units provided in connection with a Major Project shall include Affordably Priced Housing Units provided equally to Eligible Buyers in Income Range 1 (3.75%), Income Range 2 (3.75%), Income Range 3 (3.75%), and Entry Market Housing Units provided to Entry Market Buyers in Income Range 4 (3.75%). The distribution of the Affordable Units provided in connection with a Minor Project, except as otherwise set forth in Section Five of this Section, shall include Affordably Priced Housing Units provided equally to Eligible Buyers in Income Range 1 (2%), Income Range 2 (2%), Income Range 3 (2%), and Entry Market Housing Units provided to Entry Market Buyers in Income Range 4 (2%).

**13.2.1.3. Fractions.** If a fractional portion of an Affordable Unit remains when determining the required number of Units, the following requirements apply:

**1.** Where the fractional remainder is greater than 0.5, an additional unit shall be required.

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**2.** Where the fractional remainder is 0.5 or less, a residual fee shall be required in accordance with the Affordable Housing Regulations.

**13.2.2. Integration.** Affordable Housing shall be integrated into the overall design and layout of the Project, and the Affordable Units shall be reasonably dispersed within the Project. An appropriate mix of housing types and sizes may be included in the Projects so long as it otherwise complies with this Ordinance. At a minimum, the general location, total number of units, a description as to the type and design of those units, the general pricing structure, and the proposed phasing of the Affordable Housing shall be identified in the Affordable Housing Plan and the exact location of the Affordable Units shall be identified in the Affordable Housing Agreement.

**13.2.2.1.** Affordable Housing shall be provided in phases if the Project is otherwise to be phased, but the proportion of Affordable Units offered for sale within any phase shall not be less than the proportion of the total number of lots to be developed within all phases of the Project and the total number of Affordable Units to be offered within all phases of the Project.

**13.2.2.2.** An applicant shall submit an Affordable Housing Plan as a part of the application for approval of a Project. The Affordable Housing Plan shall describe, in detail, how the applicant intends to comply with the Affordable Housing requirements of this Ordinance, and shall specify whether alternative means of compliance or hardship conditions will be claimed and, if so, the grounds for doing so. The Affordable Housing Plan shall be submitted at the earliest phase of the review process and shall be included as a part of the development review for that development. The Affordable Housing Administrator may request additional information from the applicant, or reject or require amendments to a proposed Affordable Housing Plan if the proposed Affordable Housing Plan fails to meet the requirements of this Section or the Affordable Housing Regulations. The Affordable Housing Plan will be incorporated into the Affordable Housing Agreement that shall be filed and recorded with a final development plan or a final plat, whichever instrument is the first to be recorded.

**13.2.2.3.** A final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County.

## 13.3. AFFORDABLE HOUSING REGULATIONS.

**13.3.1. Recommendation by Affordable Housing Administrator.** The Affordable Housing Administrator shall recommend and present to the Board proposed Affordable Housing Regulations and appropriate amendments.

**13.3.2. Minimum Regulations.** The Affordable Housing Regulations shall include, at a minimum, the following:

**13.3.2.1.** The application submittal requirements necessary to reasonably evaluate compliance with this Chapter, the requirements governing the Affordable Housing Plan and Affordable Housing Agreement.

**13.3.2.2.** The form of the Affordable Housing Agreement, including standard terms and conditions for providing Affordable Housing within a Project, the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units, a description of how the Affordable Units will be marketed and sold to Eligible Buyers or Entry Market Buyers, and a requirement that the Affordable Housing Agreement be filed and recorded with the Final Plat;

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**13.3.2.3.** A reasonable process for certifying Eligible or Entry Market Buyers that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;

**13.3.2.4.** Reasonable fees to be charged for certification of Eligible or Entry Market Buyers;

**13.3.2.5.** The form of the Certificate of Compliance to be issued upon compliance with the terms of this Chapter;

**13.3.2.6.** A Maximum Target Housing Price for each income range;

**13.3.2.7.** Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;

**13.3.2.8.** The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to discount the market price by the same percentages to determine the price for each category of Eligible Housing Type and for each Income Range;

**13.3.2.9.** The method for determining fees associated with this Chapter, including cash payments as an alternative means of compliance and residual fees;

**13.3.2.10.** Rules for applying the residual fee standards;

**13.3.2.11.** A methodology for evaluating cash payments;

**13.3.2.12.** A methodology for evaluating property dedications;

**13.3.2.13.** A methodology for evaluating proposed cash payments for alternative means of compliance;

**13.3.2.14.** A methodology for evaluating property dedications for alternative means of compliance;

**13.3.2.15.** A methodology for determining incentives for energy efficiency;

**13.3.2.16.** Criteria and procedures for reducing the County's share of the Appreciation and the Affordability Mortgage or Lien; and

**13.3.2.17.** Any other matter deemed necessary by the Board including but not limited to Project and housing development practices consistent with fair housing principles.

**13.3.3. Adoption.** The Affordable Housing Regulations shall be adopted by resolution of the Board and shall be amended from time to time as deemed necessary and to account for changes in indices used to make calculations required by this Chapter and the Affordable Housing Regulations.

**13.4. RENTAL OF AFFORDABLE UNITS.** An Eligible or Entry Market Buyer shall not lease an Affordable Housing Unit that is provided pursuant to this Chapter unless the proposed tenant is an immediate family member of the Eligible or Entry Market Buyer, the Eligible or Entry Market Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique

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circumstances of hardship, and the proposed lease of the premises is approved in writing by the Affordable Housing Administrator.

**13.5. WATER FOR AFFORDABLE HOUSING.** A Project shall not be required to transfer water rights to the County for the Affordably Priced Housing Units so long as at the time of application the County holds adequate water rights to supply the Affordably Priced Housing Units and is otherwise capable of supplying the Affordably Priced Housing Units.

**13.6. AFFORDABLE HOUSING INCENTIVES.**

**13.6.1. Density Bonus.** A Major Project that utilizes a Community Water System may receive increased density to accommodate the Affordably Priced Housing Units pursuant to the requirements contained within this Chapter. A Minor Project may receive increased density to accommodate the Affordably Priced Housing Units pursuant to the requirements contained within this Ordinance so long as the Project provides no less than fifteen percent (15%) Affordable Housing, and so long as: (i) the Project utilizes a Community Water System, and (ii) clustering concepts are incorporated into the Project.

**13.6.1.1.** The density bonus permitted by this Chapter shall not exceed 2/3 unit for each Affordably Priced Housing Unit provided and as otherwise permitted by application of the SLDC, not to exceed an increased density of fifteen percent (15%) attributable to the Project in total.

**13.6.1.2.** The affordability requirements for a Project shall be determined prior to applying any density bonus.

**13.6.1.3.** Density bonuses of not more than twenty percent (20%) attributable to the Project as a whole may be approved by the Board on a case-by-case basis, so long as the Project remains compatible with surrounding uses and the impacts to adjacent areas are minimal.

**13.6.2. Incentives for Energy Efficiency.** A Project that provides energy efficiency measures within the Project as a whole shall be permitted to apply all the incentives described in this Chapter to each Entry Market Housing Unit. The criteria to evaluate a proposal to provide energy efficiency measures shall be more specifically described in the Affordable Housing Regulations.

**13.6.3. Relief from Development Fees.** Notwithstanding the provisions of the SLDC, a Project that provides Affordable Housing as required by this Chapter shall be relieved of the obligation to pay development fees for each Affordably Priced Housing Unit provided within the Project.

**13.6.4. Relief from Additional County Water Utility Connection Charges.** A Project that provides Affordable Housing as required by this Chapter shall be relieved of the obligation to pay additional water connection charges (excluding the costs of creating a line extension pursuant to a Water Service Agreement) for each Affordably Priced Housing Unit that exceeds the cost of the water meter.

**13.6.5. Reduction of Lot Size for Affordable Units.** A Minor Project that is not eligible for a water rights transfer waiver (Section Eight, herein) or a water allocation or density bonus (Section Nine, herein), may reduce the lot area for each Affordably Priced Housing Unit to the minimum permitted by applicable Regulations of the New Mexico Environmental Department, so long as the Affordably Priced Housing Unit whose lot sizes are reduced pursuant to this Section are reasonably dispersed throughout the Project.

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**13.6.6. Other Incentives Authorized by Art. 27, New Mexico Affordable Housing Act.** The County may donate land for construction of affordable housing or an existing building for conversion or renovation into affordable housing or may provide or pay the costs of infrastructure necessary to support affordable housing projects if permitted under the terms of a separate ordinance enacted pursuant to NMSA 1978, § 6-27-1 et seq.

## 13.7. ALTERNATIVE MEANS OF COMPLIANCE.

**13.7.1.** A Project may alternatively meet all or a portion of its obligation to provide Affordable Housing by:

**13.7.1.1.** providing Affordable Units outside the Project but within central and northern Santa Fe County, as shown on Map 14-1;

**13.7.1.2.** making a cash payment~~ that is equal to or greater value than would have been required if the Project had been constructed or created Affordable Units as provided in this Chapter~~, calculated by applying the methodology set forth in the Affordable Housing Regulations;

**13.7.1.3.** dedicating property suitable for construction of Affordable Units outside the Project but within central and northern Santa Fe County, as shown on Map 14-1, whose value is equal to or greater than~~ that which would have been required if the Project had been constructed or created Affordable Units as provided in this Chapter,~~ the required minimum value calculated by applying the methodology set forth in the Affordable Housing Regulations; or

**13.7.1.4.** otherwise providing Affordable Units in a manner that is consistent with the goals and objectives of this Chapter including providing rental ~~homes~~affordable units ~~-~~in lieu of ~~homes~~affordable units ~~-~~for purchase, so long as ~~the initial market value rental payments do not exceed that which an affordable buyer would have to pay to purchase a home in~~ the income ranges specified in the ~~affordable~~ Affordable ~~housing~~ Housing ~~regulations~~Regulations.

**13.7.2.** Review and approval of a proposal to use an alternative means of compliance provided by this Section shall be conducted during the review of the application. Alternatively, a person desiring to develop a Project may apply for concept approval of a proposed Affordable Housing Plan prior to applying for approval of a Project. Concept approval of an alternative means of compliance shall not imply nor commit to an approval for future development.

**13.7.3.** Where an alternative means of compliance is proposed, both the Project and its off-site affordable housing component shall be considered and processed as a single Project, except as otherwise provided in this Chapter.

**13.7.4.** In deciding whether to accept a proposed alternative means of compliance, the County shall consider the following where applicable:

**13.7.4.1.** whether implementation of a proposed alternative means of compliance would overly concentrate Affordable Units in an area or within the proposed Project in a location where such a concentration would be inappropriate given present and anticipated future conditions if the proposal involves providing Affordable Units outside the Project area;

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**13.7.4.2.** whether there is adequate existing infrastructure, including water systems, liquid waste facilities and transportation systems, to support the Affordable Units in the proposed location;

**13.7.4.3.** whether public facilities can serve the proposed alternative site or project, and whether the commitment to provide such service has been confirmed;

**13.7.4.4.** whether there is a specific need or market for Affordable Units in the location proposed;

**13.7.4.5.** whether the property where the Affordable Units are proposed to be located is suitable for residential use and residential development; and

**13.7.4.6.** whether the proposed alternative means of compliance provides an overall greater public benefit than if the Affordable Units were constructed within the Project or Minor Project.

**13.7.5.** In deciding whether to accept a proposed alternative means of compliance, the Board shall consider whether:

**13.7.5.1.** the proposed cash payment is equal to or greater than the cost of constructing equivalent Affordable Units within the Project, applying the methodology set forth in the Affordable Housing Regulations;

**13.7.5.2.** a proposed cash payment or dedication of property , creates a substantial surplus of funds within the dedicated housing fund or trust specific to that purpose;

**13.7.5.3.** the appraised value of the property proposed to be dedicated is equal to or greater than the total estimated value of the affordable units that would have been constructed within the Project, applying the methodology set forth in the Affordable Housing Regulations;

**13.7.5.4.** a cash payment or property provides a greater overall public benefit than if the Affordable Units were constructed within the Project or Minor Project that would have otherwise provided for mixed-income development; and

**13.7.5.5.** the method for determining the total cash payment amount or value of property proposed for transfer is sufficient shall be established in the Affordable Housing Regulations.

**13.7.6.** Incentives described in this Chapter may only be applied to a Project utilizing alternative means of compliance if the Board specifically finds that this Chapter, when applied to the Project, would result in economic infeasibility.

## 13.8. HARDSHIP CONDITIONS.

**13.8.1.** The Board may waive one or more of the requirements set forth in this Chapter if a condition of hardship exists as set forth in this Section.

**13.8.2.** A condition of hardship shall exist for purposes of this Section, as follows:

**13.8.2.1.** Where the Project fails to qualify for any incentive set forth herein;

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**13.8.2.2.** Where the Project fails to demonstrate eligibility for an alternative means of compliance;

**13.8.2.3.** Where application of the provisions of this Section would result in economic infeasibility of the Project; or

**13.8.2.4.** Where complying with the requirements of this Chapter would deprive a property owner of substantially all economically viable use of the subject property taken as a whole contrary to the Constitution of the United States or the Constitution of the State of New Mexico.

**13.8.3.** A condition of hardship exists for a Minor Project when an Affordable Unit (or lot created for an Affordable Unit) cannot be sold within a reasonable period of time without causing a loss on the Minor Project taken as a whole.

## 13.9. LONG-TERM AFFORDABILITY.

**13.9.1.** Each Affordable Housing Agreement shall include a form of lien, mortgage or other instrument (herein after referred to as "the Affordability Mortgage or Lien") that shall be executed and recorded along with the deed conveying the Affordable Unit to the first buyer, and that instrument shall create a mortgage or lien in favor of the County in the amount of the difference between the Maximum Target Housing Price and ninety-five percent of the unrestricted fair market value of the Affordable Unit at the time of initial sale, as determined by an appraisal approved by the County, ~~which specifies that the value of the mortgage or lien is calculated at any given point by multiplying the number of full years that have elapsed from the date of first sale of the Affordable Unit by 0.10 and then multiplying that result by the difference between the Maximum Target Housing Price and ninety-five percent of the unrestricted fair market value of the Affordable Unit at the time of initial sale. The liens, mortgages or other instruments shall be dilly~~ The liens, mortgages or other instruments shall include a formula for reduction of the principal amount as set forth in the Affordable Housing Regulations. The liens, mortgages or other instruments shall be duly executed and recorded in the Office of the County Clerk.

**13.9.2.** The lien, instrument, or mortgage shall contain a provision that creates a right of first refusal in favor of the County to purchase the Affordable Unit or the right to broker resale of the Affordable Unit to an Eligible or Entry Market Buyer at the-then fair market value of the Affordable Unit. This instrument shall require the owner of an Affordable Unit to provide the County with fifteen (15) days written notice of intent to sell the Affordable Unit during which period the County may indicate its intent to purchase the unit or broker a purchase and sale of the unit to an Eligible Buyer. The instrument shall further provide the County with an additional 60 days after it has notified the owner of its intent to purchase the unit or broker a purchase and sale of the unit to complete the transaction. If the County fails to notify the owner of its intent to purchase the unit or broker a purchase of the unit within the allotted time period, or if it does not complete the transaction within the allotted time period, the owner shall have the right to sell the unit to any buyer at an unrestricted price.

~~**13.9.3.** The lien, mortgage or other instrument shall also provide that, when the. Affordable Unit is sold or refinanced, the County shall share in the appreciation in the same percentage as the proportion of the county's initial lien to the initial market value of the home.~~

**13.9.~~4~~3.** The form of the instrument described above, and the methodology for determining the initial market value of the Affordable Unit shall be specified in the Affordable Housing Regulations.

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**13.9.~~5~~4.** Any lien, mortgage, or other instrument referred to in this Section shall be released and satisfied through an appropriate instrument at the time of sale of the Affordable Unit and the appropriate instrument shall be recorded in the Office of the County Clerk documenting the release and satisfaction thereof. Any amounts collected from application of any affordability mortgage or lien shall be paid to the County contemporaneously with release of said instrument.

**13.9.~~6~~5.** An Affordability Mortgage or Lien may be temporarily released for the limited purpose of closing a subsequent purchase and sale of an Affordable Unit so long as an affordability mortgage or lien is executed by the buyer and recorded as provided in this Section.

**13.9.~~6~~7.** Any amounts collected from application of any Affordability Mortgage or Lien shall be deposited into a fund created in the County treasury the sole purpose of which shall be to support Affordable Housing within Santa Fe County or, alternatively, transferred to the Santa Fe County Housing Authority to support Affordable Housing within Santa Fe County. The fund or trust shall be governed by rules and requirements set forth in a separate Ordinance enacted pursuant to NMSA 1978, § 6-27-1 et seq.

**13.9.~~7~~8.** Where the-then owner of an Affordable Unit is under extreme duress by reason of unemployment, family medical emergency, divorce, or death and is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or for other unique and extreme circumstances of hardship, the Affordable Lien may be compromised or released.

**13.10. AFFORDABLE HOUSING ADMINISTRATOR.** The position of Affordable Housing Administrator is established. The Affordable Housing Administrator shall administer this Chapter, manage the fund or trust established pursuant to subsection 13.7.5.2, act as an ombudsman to the development review process, and have other responsibilities set forth in the SLDC.

**13.11. AFFORDABLE HOUSING ORDINANCE REVIEW.** The Affordable Housing Administrator shall prepare an Affordable Housing Report and present it to the Board of County Commissioners annually. The purpose of the report is to measure the overall effectiveness of the affordable housing provisions of the SLDC and to identify any deficiencies. In the annual report, the Affordable Housing Administrator shall recommend any amendments necessary this Section.

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# Chapter 14 – Inspections, Penalties, Enforcement, Miscellaneous Permits and their Expirations

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# CHAPTER 14 – INSPECTIONS, PENALTIES, ENFORCEMENT, MISCELLANEOUS PERMITS AND THEIR EXPIRATIONS

## 14.1. INSPECTIONS.

**14.1.1.** The Board shall annually appoint persons to serve as code enforcement officers and who will be primarily responsible for enforcement of the SLDC.

**14.1.2.** Each code enforcement officer shall carry proper identification when inspecting development in the performance of duties under the SLDC. Identification shall be presented upon request.

**14.1.3.** The Administrator, through the Code Enforcement Officers, shall conduct periodic visual inspections to determine compliance with the SLDC. Any violations discovered during such visual inspections may be treated as a violation of the SLDC.

**14.1.4.** The Administrator, through the Code Enforcement Officers, shall conduct inspections following a complaint to determine compliance with the SLDC. Any violations discovered during such inspections may be treated as a violation of the SLDC.

**14.1.5.** The code enforcement officers, where it is necessary to make an inspection to enforce the provisions of the SLDC, or where a code enforcement official has reasonable cause to believe that there exists upon a premises a condition which is contrary to or in violation of the SLDC, the code enforcement officer is authorized to enter the premises at reasonable times to inspect or perform the duties imposed by the SLDC, provided that if the premises are occupied that credentials be presented to the occupant and entry requested. If such premises are unoccupied, the code enforcement officer, before undertaking entry, shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the code enforcement officer shall have recourse to the remedies provided by law to secure entry.

## 14.2. CERTIFICATES OF COMPLETION.

**14.2.1.** A certificate of completion shall be required for each development permit issued under the SLDC. Failure to obtain a certificate of completion prior to using or occupying property that is the subject of a development permit shall be a violation of the SLDC.

**14.2.2.** A certificate of completion indicates that the development approved in the development permit complies with the applicable provision of the SLDC, conditions approved as a part of the development permit, and that the development has been completed in full compliance with the SLDC.

**14.2.3.** Even though a certificate of completion has been issued by the Administrator, an inspection of a development may be later required to ensure compliance with the SLDC.

## 14.3. VIOLATIONS OF THE SLDC.

**14.3.1.** Any person who participates in, assists, directs, creates or maintains any building, structure or use that is contrary to the requirements of the SLDC, who fails to obtain a permit required by the SLDC, or who violates the terms or conditions of any development order issued pursuant to the SLDC, shall have committed a violation of the SLDC and shall be held

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responsible for the violation and be subject to administrative, civil or criminal penalties, as well as injunctive relief and other equitable and legal remedies.

**14.3.2.** A code enforcement officer shall have the authority to serve a notice of violation on the person responsible for development that is contrary to any provisions of the SLDC, or in violation of a development permit or condition applicable to development issued under the SLDC or any previous ordinance. Such order shall, as appropriate, direct the discontinuance of the unlawful action and the abatement of the violation.

**14.3.3.** A code enforcement officer may, but is not required to, serve a final notice of violation on the person responsible for development that is contrary to any provisions of the SLDC, or in violation of a development permit or condition applicable to an existing development issued under the SLDC or any previous ordinance.

**14.3.4.** In addition to the authority to issue a stop work order where the holder of a development permit fails or refuses to comply with the terms or conditions of a development permit, a code enforcement official is authorized to suspend or revoke a development permit for non-compliance by issuance of a notice of violation. No notice of violation revoking a development permit for non-compliance shall be issued until prior attempts to bring the permit holder into compliance have failed such as through the issuance of a stop work order or a notice of suspension. Any person who shall continue any work or fail to continue any work after having been served with a notice of violation to suspend or revoke a development permit for non-compliance, shall be subject to penalties as prescribed by law and this Code.

**14.3.~~4~~5.** If any notice of violation is not complied with promptly, the code enforcement officer is authorized to request assistance from the County Attorney to institute appropriate proceedings at law or in equity to restrain, correct or abate such violation, to require removal or termination of any unlawful occupancy of development, building or structure in violation of the provisions of the SLDC or an order or direction made pursuant thereto, or to pursue all available criminal and civil penalties appropriate to the nature of the violation.

**14.3.~~5~~6.** Wherever a code enforcement official finds any development regulated by the SLDC or previous ordinance being performed in a manner that is contrary to the SLDC or previous ordinance, the code enforcement officer is authorized to issue a stop work order. The stop work order shall be in writing and shall be given to the owner of the property involved, the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform, shall be subject to penalties as prescribed by law.

## 14.4. PENALTIES.

### 14.4.1. General Violations of the SLDC.

**14.4.1.1.** Violation of the SLDC shall be punishable as set forth in § 4-37-3 NMSA 1978.

**14.4.1.2.** A violation of the SLDC shall be punishable by a fine not to exceed three hundred dollars ($300) or imprisonment for ninety (90) days or both the fine and imprisonment; except that the fine for discarding or disposing of refuse, litter or garbage

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on private or public property in any manner other disposing it in an authorized landfill shall not exceed the sum of One Thousand Dollars ($1,000); and except the fine for the improper or illegal disposal of hazardous materials or waste in any manner other than as provided for in the Hazardous Waste Act, §74-4-1 NMSA 1978 *et. seq.*

**14.4.1.3.** Nothing herein shall preclude the County from taking such other lawful action as is necessary to prevent or remedy any violation, such as seeking injunctive relief to prevent or remedy a violation of the SLDC.

**14.4.1.4.** Each day that a violation exists shall constitute a separate violation of the Ordinance.

**14.4.1.5.** A violation of the SLDC may be grounds for forfeiture of financial assurance deposited at the time of issuance of the development permit.

**14.4.2. Violations of the New Mexico Subdivision Act.**

**14.4.2.1.** Violation of Chapter 5 of the SLDC ("Subdivisions") shall be punishable by a fine not to exceed One Thousand Dollars ($1,000) per violation and imprisonment for a term not to exceed one year, or both.

**14.4.2.2.** A person who is convicted of a second or subsequent violation of Chapter 5 shall be guilty of a fourth degree felony and punished by a fine not to exceed Twenty-five Thousand Dollars ($25,000) or by imprisonment for not more than eighteen (18) months, or both.

**14.4.2.3.** Any person who provides water, sewer, electricity, or natural gas service to a parcel within a subdivision before the final plat has been approved as provided in the SLDC shall be fined the sum of five hundred dollars ($500) by the Board. In such circumstances, the Board may also order that any connections made as described in the previous sentence be immediately disconnected.

**14.4.2.4.** A violation of Chapter 5 may be grounds for forfeiture of financial assurance deposited at the time of issuance of the plat recordation.

**14.5. CRIMINAL ENFORCEMENT.**

**14.5.1.** The Administrator, through Code Enforcement Officers employed by the Administrator, shall investigate complaints of a violation of the SLDC, or of the terms and conditions of any development order issued pursuant to the SLDC.

**14.5.2.** Upon receipt of a complaint, the Administrator shall assign a Code Enforcement Officer to investigate the facts of the complaint.

**14.5.3.** The Code Enforcement Officer may, as appropriate, review files held by the Administrator, interview person or persons with knowledge of the facts giving rise to the complaint, inspect a site, buildings or structures, interview the complaining person or the person alleged to have committed the violation.

**14.5.4.** If a violation is found, the Code Enforcement Officer may issue a Notice of Violation to the offending party that indicates the nature of the violation and orders such action necessary to correct or abate it. The Code Enforcement Officer may consult with the Administrator and other County officials to determine how to address the violation.

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**14.5.5.** The Code Enforcement Officer may also file criminal complaints in Court seeking penalties (set forth above) for the violation of the SLDC.

**14.5.6.** Once a disposition of the complaint has been reached, the Administrator shall notify the complaining party as to the disposition of the complaint.

## 14.6. CIVIL ENFORCEMENT.

**14.6.1.** If a person in violation of the SLDC who has received a notice of violation pursuant to § 14.4 fails to correct the violation within ten (10) working days, or such longer period as the Administrator determines is reasonably required to effect compliance, the Administrator may issue an administrative order imposing a fine or penalty pursuant to §3-21-13 NMSA 1978 in an amount not to exceed three hundred dollars ($300), or the statutory maximum, if greater, for each day a violation continues;

**14.6.2.** Each person who has committed a violation of the SLDC who fails to correct the violation within ten (10) working days of being notified by the Administrator of the violation, or such longer period as the Administrator determines is reasonably required to achieve compliance, shall not be authorized to apply for a development permit or be entitled to further processing of a pending development approval, until the violation is corrected. The Administrator, upon notice to the applicant, may also suspend any existing development approval, pending resolution of the violation. Any person aggrieved by an administrative order suspending or revoking a development permit may file a notice of appeal of such order within thirty (30) days after such order is issued. During the pendency of the appeal, the Administrator shall suspend enforcement of the order except to the extent the Administrator determines that the continuation of the violation(s) constitutes a serious threat to the public health or safety. In such a case, an action for injunction seeking such relief as is necessary to protect the public health or safety may be filed.

## 14.7. OTHER REMEDIES.

**14.7.1.** If any development is determined to have violated the SLDC or if development is proposed that would in the future violate the SLDC, the Board, through the County Attorney, may institute any appropriate legal action or proceedings to prevent the violation from occurring or continuing; to prevent occupancy of a building, structure or land in violation of the SLDC, or to prevent any act, conduct, business or use in violation of the SLDC.

**14.7.2.** If any development constitutes a public nuisance as defined in Ordinance 2009-11 and as generally defined in § 30-8-1 NMSA 1978, the Board may apply to a court for authority to abate the nuisance.

## 14.8. MINISTERIAL DEVELOPMENT APPROVAL (ADMINISTRATIVE APPROVAL).

**14.8.1. Generally.** Ministerial development approval, often referred to as 'administrative approval,' involves the application of the standards of the SLDC to an application by the Administrator. A public hearing is not required. The types of applications eligible for ministerial development approval are described below.

**14.8.2. Development Permits.** A development permit is a written document that authorizes development in accordance with the SLDC. A development permit may require inspections and a certificate of completion, and may authorize multiple forms of development or may authorize a single development activity. A development permit may include conditions which shall apply to the development. A site development plan is required for any non-residential use or multi-family use requesting a development permit. A development permit shall be required for any of the following activities:

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**14.8.2.1. Construction.** For construction or renovation of, or an addition to any structure;

**14.8.2.2. Road/Driveway**. For construction or reconstruction of a road or driveway pursuant to Chapter 7 (a separate permit is required to access a County road);

**14.8.2.3. Signs.** For construction or placement of a sign pursuant to Chapter 7;

**14.8.2.4. Grading**. For grading of a site prior to issuance of another development permit pursuant to Chapter 7;

**14.8.2.5. Floodplain Development.** For development within a designated Special Flood Hazard Area (SFHA) pursuant to Chapter 7;

**14.8.2.6. Utilities.** For installation of utilities prior to issuance of other development permits pursuant to the SLDC pursuant to Chapter 7; and

**14.8.2.7. Swimming pool.** To authorize installation of a swimming pool pursuant to Chapter 7.

**14.8.2.8. Fences and walls.**

**1.** Residential walls and fences higher than six feet;

**2.** All walls and opaque fences for nonresidential or multi-family use;

**3.** All retaining walls higher than four feet;

**4.** Walls or opaque fences built atop a retaining wall where the total height of the wall and/or fence and retaining wall is greater than six feet;

**5.** Walls or opaque fences that cross a stream, existing trail, arroyo, acequia or drainage channel; and

**6.** Any walls or fences built within a safe sight triangle.

**14.8.2.9. Signs.** A development permit is required prior to the placement or relocation of any sign. The content of an existing sign may be changed without a permit. Nor is a development permit required for signs that do not require a permit under Section 7.9.

**14.8.3. Minor Subdivisions.** For creation of a minor subdivision pursuant to Chapter 5.

**14.8.4. Exemptions, Divisions and Other Plat Reviews.**

**14.8.4.1. Exempt land divisions.** To authorize an exempt land division listed in § 5.4.

**14.8.4.2. Plat Vacation.** To authorize a vacation plat pursuant to § 5.11.2.

**14.8.4.3. Final Subdivision Plats.** To obtain a final subdivision plat pursuant to § 5.8.

**14.8.4.4. Subdivision Amendment Plat.** To authorize an amendment to an approved final subdivision plat pursuant to § 5.11.3.

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**14.8.4.5. Lot Consolidation Plats.** A development permit will be issued to authorize a lot consolidation that has been approved pursuant to the SLDC, together with any conditions.

**14.8.5. Family Transfers.** For approval of a property transfer to a family member in accordance with § 5.4.3.2.

**14.8.6. Temporary Use Permits.** To permit certain temporary uses pursuant to Chapter 10.

## 14.9. DEVELOPMENT APPROVALS REQUIRING A HEARING.

**14.9.1. Plans and Plan Amendments.** For adoption or amendment of certain plans (see Chapter 2) in accordance with the procedures established in Chapter 1.

**14.9.2. SLDC Text Amendments.** For an amendment to the text of the SLDC pursuant to Chapter 1.

**14.9.3. Map Amendments and Rezoning.** For an amendment to the zoning map (rezoning) pursuant to Chapters 1, 4 and 8.

**14.9.4. Developments of Countywide Impact.** A separate development permit will be issued to authorize each development of county-wide impact (DCI) following the creation of any necessary floating zone (as applicable) pursuant to Chapter 11.

**14.9.5. Subdivisions.** For approval of major subdivision plans in accordance with Chapter 5.

**14.9.6. Conditional Use Permits.** For approval of certain conditional uses as set forth in the Use Matrix and elsewhere in the SLDC, pursuant to this subsection.

**14.9.6.1. Purpose and Findings.** This section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right but which may, under appropriate standards and factors set forth herein, be approved. These uses shall be permitted through the issuance of a conditional use permit (CUP).

**14.9.6.2. Applicability.** The provisions of this section apply to any application for approval of a CUP as required by the Use Matrix. Conditional uses are those uses that are generally compatible with the land uses permitted by right in a zoning district but that require individual review of their location, design and configuration, and the imposition of conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are enumerated as conditional uses in a zoning district, as set forth in the use matrix may be authorized by the Planning Commission. No inherent right exists to receive a CUP. Concurrent with approval of a CUP, additional standards, conditions and mitigating requirements may be attached to the development order. Additionally, every CUP application shall be required to comply with all applicable requirements contained in the SLDC. Additionally, every CUP application shall be required to comply with all applicable requirements contained in the SLDC.

**14.9.6.3. Application.** An applicant may apply for a CUP by filing an application for discretionary development approval with the Administrator. A site development plan is

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required for a CUP and shall include any SRAs required pursuant to Table 6-1 in Chapter 6.

**14.9.6.4. Review.** The application shall be referred to the Planning Commission for the holding of a quasi-judicial public hearing.

**14.9.6.5. Approval Criteria.** Before any conditional use permit may be approved, it shall appear that the use for which the permit is requested will not:

**1.** Be detrimental to the health, safety and general welfare of the area;

**2.** Tend to create congestion in roads;

**3.** Create a potential hazard for fire, panic, or other danger;

**4.** Tend to overcrowd land and cause undue concentration of population;

**5.** Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

**6.** Interfere with adequate light and air;

**7.** Be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the SLDC or SGMP.

**14.9.6.6. Conditions.** In approving any CUP, the Planning Commission may:

**1.** Impose such reasonable standards, conditions, or mitigation requirements, in addition to any general standard specified in the SLDC or the SGMP, as the Planning Commission may deem necessary. Such additional standards, conditions, or mitigation requirements may include, but are not be limited to:

**a.** financing and availability of adequate public facilities or services;

**b.** reservations and dedications;

**c.** payment of development fees;

**d.** establishment of assessment and public improvement districts;

**e.** adoption of restrictive covenants or easements;

**f.** special buffers or setbacks, yard requirements, increased screening or landscaping requirements;

**g.** area requirements;

**h.** development phasing;

**i.** standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, or preservation of archaeological, cultural and historic resources; and

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**j.** provision of sustainable design and improvement features, solar, wind or other renewable energy source, rainwater capture, storage and treatment or other sustainability requirements.

**2.** Require that a payment and performance guaranty be delivered by the owner/applicant to the Administrator to ensure compliance with all conditions and mitigation measures as are set forth in the development order; and

**3.** Encourage that a voluntary development agreement be entered into between the owner/applicant and the County to carry out all requirements, conditions and mitigation measures.

**14.9.6.7. Scope of Approval.** The CUP approval applies only to the project as presented and approved at the hearing. If the project changes in any way it will be subject to the major/minor amendments provisions of §14.9.6.8.

**14.9.6.8. Amendments.** An amendment is a request for any enlargement, expansion, greater density or intensity, relocation, decrease in a project's size or density, or modification of any condition of a previously approved and currently valid CUP.

**1. Minor Amendments.** Shifts in on-site location and changes in size, shape, intensity, or configuration of less than five percent (5%), or a five percent (5%) or less increase in either impervious surface or floor area over what was originally approved, may be authorized by the Administrator, provided that such changes comply with the following criteria:

**a.** No previous minor amendment has been previously granted pursuant to this section;

**b.** Nothing in the currently valid CUP precludes or otherwise limits such expansion or enlargement; and

**c.** The proposal conforms to the SLDC and is consistent with the goals, policies and strategies of the SGMP.

**2. Minor Amendments Causing Detrimental Impact.** If the Administrator determines that there may be any detrimental impact on adjacent property caused by the minor amendment's change in the appearance or use of the property or other contributing factor, the owner/applicant shall be required to file a major amendment.

**3. Major Amendments.** Any proposed amendment, other than minor amendments provided for in §14.9.6.8.1, shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original CUP development approval.

**4. Recording Procedures.** A certified copy of the approved CUP shall be recorded at the expense of the applicant in the office of the County Clerk, and another certified copy filed in the office of the Administrator.

**14.9.6.9. Expiration of CUP.** The development order granting a CUP shall expire after twenty-four (24) months, but may be renewed by the Planning Commission for up to twelve (12) additional months, unless substantial construction or operation of the building, structure or use authorized by the CUP has commenced. No further extension

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shall be granted under any circumstances, and any changes in the requirements of the SLDC, or federal or state law shall apply to any new CUP development approval application.

**14.9.7. Variances.**

**14.9.7.1. Purpose.** The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

**14.9.7.2. Process.** All applications for variances will be processed in accordance with this chapter of the Code.

**14.9.7.3. Applicability.** When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC except that the planning commission shall not grant a variance that authorizes a use of land that is otherwise prohibited in the relevant zoning district.

**14.9.7.4. Review criteria.** A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

**1.** where the request is not contrary to the public interest;

**2.** where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant; and

**3.** so that the spirit of the SLDC is observed and substantial justice is done.

**14.9.7.5. Conditions of approval.**

**1.** The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.

**2.** All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.

**3.** All approved variances automatically expire within one year of the date of approval, unless the applicant takes affirmative action consistent with the approval.

**14.9.7.6. Administrative ~~variance/~~minor deviations.** The Administrator is authorized to administratively approve ~~administrative variances~~minor deviations~~ from the dimensional requirements of Chapter 7 the SLDC not to exceed ten percent of the required dimension, but only~~ upon a finding that the result is consistent with the intent and purpose of this SLDC~~code~~ and not detrimental to adjacent or surrounding properties as follows:

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**1.** minor deviations from the dimensional requirements of Chapter 7 of the SLDC not to exceed ten percent (10%) of the required dimension.

**2.** minor deviations from the density requirements of Chapter 8 of the SLDC not to exceed five tenths of a percent (0.5%) of the gross acreage allowed in the zoning district.

**14.9.8. Beneficial Use and Value Determination (BUD).**

**14.9.8.1. Purpose.** The intent of the SLDC is to provide, through this section, a process to resolve any claims that the application of the SLDC constitutes an unconstitutional regulatory taking of property. This section is not intended to provide relief related to regulations or actions promulgated or undertaken by agencies other than the County. The provisions of this section are not intended to, and do not, create a judicial cause of action.

**14.9.8.2. Application.** In order to evaluate whether, and if so, the extent to which, application of the SLDC unconstitutionally creates a regulatory taking without just compensation, or other constitutional deprivation, an applicant, once denied development approval or granted conditional development approval, or as otherwise provided in subsection 7.16.3.1, may apply to the Administrator for a beneficial use and value determination, the application for which shall describe:

**1.** The extent of diminution of use and value with respect to the entirety of the owner's, or lessee's real property interests in common ownership;

**2.** The distinct and reasonable investment backed expectations of the owner, lessee, or predecessors in interest, in common ownership;

**3.** The availability of cluster development, phased development, tax incentives, or transfers of development rights;

**4.** Any variance or relief necessary or available to relieve any unconstitutional hardship or regulatory taking created;

**5.** Any perceived claim that the SLDC, on its face or as applied, results in a failure to advance legitimate state interests, or otherwise deny procedural or substantive due process, or equal protection of the laws.

**14.9.8.3. Timing.** Except for an application filed pursuant to subsection 7.16.3.1, an application for a BUD shall be within twelve (12) months subsequent to a final development order denying or conditionally approving an application for development approval. The application shall be filed with the Administrator together with the application and administrative fees payment as established by the Board.

**14.9.8.4. Actions by the Administrator on a BUD application.** The Administrator shall determine if the BUD Application is complete and includes all required materials and information. In determining completeness the Administrator shall follow the process set forth in § 4.4.6.

**1.** If the Administrator determines the application is not complete, a written notice shall be mailed to the owner/applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied. If the owner/applicant fails to correct the deficiencies within thirty (30) calendar days the application shall be considered withdrawn.

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**2.** When the application is determined to be complete, the Administrator shall notify the owner/applicant in writing and, within thirty (30) calendar days, forward the application to the Hearing Officer and set a quasi-judicial public hearing date on the application. The Administrator shall provide notice of the Hearing Officer's public hearing pursuant to the notice requirements in §4.6.

**14.9.8.5. Actions by the Hearing Officer.**

**1. Establishment of date for hearing and notice.** The Hearing Officer shall schedule and hold a hearing on a BUD application within sixty (60) calendar days of receipt of the complete application from the Administrator.

**2. Hearing.** The public hearing shall be conducted as a quasi-judicial hearing as set forth in § 4.7.2. At the hearing, the owner or lessee or the owner's or lessee's representative shall present the owner's or lessee's case and the County Attorney or County Attorney's representative shall present the County's case. The Hearing Officer may accept briefs, evidence, reports, or proposed recommendations from the parties.

**3. Intervention.** Any party receiving notice of the public hearing shall be entitled to intervene in the proceedings provided:

**a.** the intervener shall be an organization or association registered to receive notice under this Ordinance;

**b.** any public or governmental agency;

**c.** any owner of land within five hundred (500) feet of the site perimeter, or any person aggrieved or with standing to intervene.

**4. Findings.** Within sixty (60) calendar days of the close of the hearing, the Hearing Officer shall prepare and transmit in writing to the Administrator, the Board, County Attorney, owner, lessee, and owner's or lessee's representatives, and all other represented parties, a summary of all the evidence, testimonial or documentary, submitted, rulings on objections to evidence, and a written recommendation to the Board regarding the relief to be granted.

**5. Recommendations.**

**a.** If the Hearing Officer's recommendation is that relief is not appropriate, the recommendation shall specify the factual and legal basis for the recommendation, including whether the development requested for the site, taking into account all of the findings, constitutes an as applied public nuisance or creates adverse public nuisance effects or impacts, for which no relief can be recommended.

**b.** If the Hearing Officer's recommendation is that some form of relief is appropriate, the recommendation shall recommend a form of relief and indicate the basis for the recommendation, including, as applicable:

**i.** Identification of the SLDC provision, SGMP or area plan policy, development order or other action that resulted in the recommendation for relief; and

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**ii.** The date the SLDC provision, SGMP or area plan policy, or other final action of the County affected the property so as to necessitate relief.

**14.9.8.6. Actions by the Board.**

**1.** The Board shall, within thirty (30) calendar days of receipt at the County Manager's Office of the Hearing Officer's recommendation, set the matter for a public hearing. The Administrator shall provide notice of the public hearing similar to the notice required by §4.6 of this Code and the owner/applicant and any other interested party shall be provided an opportunity to be heard during the public hearing and prior to the decision of the Board.

**2.** The recommendation of the Hearing Officer is not binding on the Board. At the hearing, the Board shall grant a development order by resolution, approving, modifying, reversing, or approving with conditions, the recommendations of the Hearing Officer, based on the standards of this section. The development order shall:

**a.** State a date, if any, upon which a development order granting relief will cease to be in effect;

**b.** State that neither the Board's development order nor any process or evidence constitutes an admission of taking of property, or other unconstitutional deprivation;

**c.** Direct County staff to undertake any additional steps necessary to implement the development order; and

**d.** Address other matters as necessary to implement the purpose and intent of this section.

**3. Granting Relief.** If the Board determines that relief is appropriate under this section, relief may be granted, as provided in this section and consistent with the SLDC, or applicable area plan.

**14.9.8.7. Forms of Relief.** In order to avoid an unconstitutional result and to provide an owner with an economically viable use and value of property pursuant to this section, the Hearing Officer may recommend and the Board may allow for the minimum additional use(s), density, or relief necessary to alleviate any unconstitutional taking or deprivation.

**14.9.9 Conceptual Plan.** For approval of certain large scale and phased development as set forth below.

**14.9.9.1. Purpose.** A Conceptual plan is comprehensive in establishing the scope of a project, yet is less detailed than a site development plan. It provides a means to review projects and obtain conceptual approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval. A conceptual plan submittal will consist of both plans and written reports.

**14.9.9.2. Applicability** A conceptual plan is required for the following developments:

**1.** all subdivisions containing more than 24 lots

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**2.** All developments in MU, P/I, I, IL. CG. CN that are to be built in phases

**3.** All new PD develoments

**4.** All development in the CCD in accordance with Section 8.10.3 of this SLDC.

**14.9.9.3. Application.** An applicant may apply for a conceptual plan by filing an application with the Administrator. A conceptual plan shall include any SRAs required pursuant to Table 6-1 in Chapter 6. The minimum area which must be included in a conceptual plan application is the entire property owned by the applicant or the portion of the property within a the zoning district under which the application is being made.

**14.9.9.4. Review.** The application shall be referred to the Planning Commission and/or Board for the holding of a quasi-judicial public hearing in accordance with the procedures in Table 4-1.

**14.9.9.5. Phasing.** The conceptual plan shall establish the phasing of a development.

**14.9.9.6. Approval Criteria.** The criteria for approval of a Conceptual Plan are as follows:

**1.** Conformance to the Sustainable Growth Management Plan;

**2.** Viability of the proposed phases of the project to function as completed developments in the case that subsequent phases of the project are not approved or completed;

**3.** Conformance to applicable law and County ordinances in effect at the time of consideration, including required improvements and community facilities and design and/or construction standards.

**14.9.9.7. Conditions.** Conditions may be imposed in addition to any general standard specified in the SLDC or the SGMP, as may be deemed necessary.

**14.9.9.8. Amendments.** An amendment is a request for any enlargement, expansion, greater density or intensity, relocation, decrease in a project's size or density, or modification of any condition of a previously approved and currently valid conceptual plan.

**1. Minor Amendments.** Shifts in on-site location and changes in size, shape, intensity, or configuration of less than five percent (5%), or a five percent (5%) or less increase in either impervious surface or floor area over what was originally approved, may be authorized by the Administrator, provided that such changes comply with the following criteria:

**a.** No previous minor amendment has been previously granted pursuant to this section;

**b.** Nothing in the currently valid conceptual plan precludes or otherwise limits such expansion or enlargement; and

**c.** The proposal conforms to the SLDC and is consistent with the goals, policies and strategies of the SGMP.

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**2. Major Amendments.** Any proposed amendment, other than minor amendments, shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original conceptual plan approval.

**14.9.9.9. Recording Procedures.** A certified copy of the approved conceptual plan shall be recorded at the expense of the applicant in the office of the County Clerk, and another certified copy filed in the office of the Administrator.

**14.9.9.9. Expiration of a conceptual plan.** The development order granting a conceptual plan shall expire after five (5) years, but may be renewed by the Board for up to two (2) additional years at a time. If a phasing schedule is approved, the conceptual plan expiration shall be in accordance with that phasing schedule.

**14.~~9.9~~10. Nonconforming Uses.**

**14.~~9.9~~10.1. Purpose and Findings.** The requirements of this article govern uses, structures, lots and other situations that came into existence legally but that do not comply with one or more current requirements of this SLDC. This section applies to nonconformities created by initial adoption of, or amendments to, the SLDC; and to nonconformities that were legal nonconformities under previously applicable ordinances even if the type or extent of nonconformity under the SLDC is different than the original nonconformity.

**14.~~9.9~~10.2. Continuation Permitted.** Any nonconformity that legally existed on the date of adoption of this SLDC or the original Santa Fe County Land Development Code, effective January 1, 1981, together with all amendments thereto; or that becomes nonconforming upon the adoption of any amendment to this SLDC or as a result of condemnation may be continued in accordance with the provisions of this article.

**14.~~9.9.~~10.3. Non-conforming Status.** The use of land, use of a structure, or a structure itself, including but not limited to substandard parcels or structures not complying with applicable dimensional standards, shall be deemed to have nonconforming status when the use, structure or land:

**14.10.3.1.** does not conform to the current regulations prescribed in the district in which such use, structure or land is located; or

**14.10.3.2.** does not conform to the minimum lot size and use by right to develop under the base zoning district in which such lot, parcel or division is located; and

**14.10.3.3.** was in existence and lawfully constructed, platted, located and operating prior to, the regulations that made such use, structure or land nonconforming; and

**14.10.3.4.** the nonconforming use, structure or land has been in operation since the time that the use, structure or land first became nonconforming without abandonment.

**14.~~9.9~~10.4. Determination of Nonconformity Status.** The burden of establishing the nonconformity status of a use, structure or land shall be upon the owner of the claimed nonconformity and not upon the County.

**14.~~9.9~~10.5. Repairs and Maintenance.** Incidental repairs and normal maintenance of nonconforming structures or land shall be permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by this SLDC. Nothing in this Chapter shall be construed to prevent structures from being structurally strengthened or restored to a safe

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condition, in accordance with an official order of a public official.

**14.~~9.9~~10.6. Tenancy and Ownership.** The status of a nonconformity is not affected by changes of tenancy, ownership or management.

**14.~~9.9~~10.7. Changes in Nonconforming Uses.**

**14.10.7.1. Change of Use.** A nonconforming use shall not be changed to any use other than to a use that is:

**~~a~~1.** Similar to the previously established use;

**~~b~~2.** The same or less intensive and nonconforming than the previously established use; or

**~~c~~3.** Allowed in the zoning district in which it is located.

**14.10.7.2. Reuse and Expansion of Residential uses.** A nonconforming use shall not be enlarged or expanded unless such expansion eliminates or reduces the nonconforming aspects of the use.

**~~a~~1.** This section shall not be construed as prohibiting additions to any dwelling regardless of the zoning district in which such dwelling is located, nor shall any provision of this article be construed as prohibiting the construction of any use that is accessory to a dwelling unit regardless of the zoning district in which the dwelling is located.

**~~b~~2.** Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a Development Permit.

**~~c~~3.** Any nonconforming use may be changed to a conforming use by securing a Development Permit and once such change is made, the use shall not thereafter be changed to a nonconforming use.

**~~d~~4.** Expansion for the sole purpose of complying with off-street parking standards of this SLDC shall not be considered expansion of a nonconforming use.

**~~e~~5.** No Temporary Use Permit shall be issued for a site containing a nonconforming use, if the proposed temporary use or event has the potential to generate additional traffic, noise or other adverse impacts upon the surrounding area.

**14.10.7.3. Expansion of Nonresidential Uses.** Nonconforming, nonresidential uses of a structure or land, or a nonconforming, nonresidential structure may be changed or expanded by up to fifty (50) percent under a Conditional Use Permit provided that the owner/applicant complies with all of the following conditions:

**~~a~~1.** The re-use or expansion does not increase the intensity of development or alter the character of the nonconforming use on the site, according to any limitations set by this SLDC relating to development standards for lot coverage, height, waste disposal, water use, setbacks, traffic generation, parking needs, landscaping, buffering, outdoor lighting, access or signage;

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~~b~~2. The change or expansion does not confer a privilege upon the owner/applicant;

~~c~~3. The change or expansion is compatible with the surrounding uses of land and is beneficial to the health, welfare and safety of the community;

~~d~~4. All nonconforming signs shall be brought into compliance with the requirements of Chapter 7 of the SLDC; and

~~e~~5. Expansion or re-use of unsightly or unsafe conditions associated with certain nonconformities, including but not limited to junk yards, mine sites, or industrial uses shall not be permitted.

**14.10.7.4. Loss of Nonconformity Status.**

~~a~~1. **Abandonment.** If a nonconforming use ceases for any reason for a period of more than one (1) year, the use shall be considered abandoned. Once abandoned, the use's nonconforming status shall be lost and re-establishment of the use shall be prohibited. Any subsequent use shall comply with the regulations of the zoning district in which it is located.

~~b~~2. **Accessory Uses.** No use that is accessory to a principal nonconforming use shall continue after such principal use has ceased or terminated.

**14.~~9.9~~10.8. Nonconforming Structures.** A nonconforming structure may be used for any use allowed in the underlying zoning district, subject to all applicable standards of the SLDC.

**14.10.8.1. Reuse and Expansion.** A nonconforming structure may be enlarged or expanded if the expansion does not increase the extent of nonconformity.

**14.10.8.2. Moving.** A nonconforming structure may be moved if the movement or relocation eliminates the nonconformity. This provision shall not be interpreted as prohibiting the elevation of a nonconforming structure for the purpose of flood-proofing or repair.

**14.10.8.3. Nonconforming Uses and Structures.** A use or structure that was established in accordance with all regulations in effect at the time of its establishment shall not be deemed nonconforming solely due to the fact that it does not comply with the standards established by the SLDC. If such a structure is destroyed by accidental means, it may be rebuilt provided that the number of dwelling units does not exceed the number that existed prior to destruction or the maximum density limit of the subject zoning district, whichever is greater.

**14.~~9.9~~10.9. Nonconforming (Legal) Lots of Record.**

**14.10.9.1.** Any lot that does not conform to a dimension established in Chapter 8 for the relevant zoning district but that is shown on the initial zoning map as being within that zone, shall not be deemed nonconforming.

**14.10.9.2.** The owner/applicant shall submit evidence demonstrating the lawful existence of the lot on the effective date of the Santa Fe County Land Development Code [January 1, 1981].

**14.10.9.3.** If the owner/applicant has a notarized document or a document with the

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surveyors signature and seal demonstrating compliance with this section, the owner/applicant shall submit the document to the Administrator. The Administrator shall determine if the notarized document establishes the existence of the lot on the effective date of the SLDC.

**14.10.9.4.** If the owner/applicant cannot submit a document in compliance with this section, but has other evidence demonstrating compliance with this section, the evidence shall be submitted to the Planning Commission. The Planning Commission shall determine if the evidence establishes the existence of the lot on the effective date of the SLDC.

**14.~~9.9~~10.10. Uses for Nonconforming Lots.**

**14.10.10.1. Single-family Dwellings.** Vacant nonconforming lots may be developed with one single-family dwelling and accessory structures, provided that such development complies with all applicable requirements of this SLDC or a variance is obtained from the Planning Commission.

**14.10.10.2. Other Uses.** Vacant nonconforming lots may be developed with uses other than single-family dwellings as may be allowed in the underlying zoning district, provided that such development complies with all requirements of this SLDC.

**14.10.10.3. Prohibition on Reduction of Size.** A nonconforming lot may not be further reduced in size except by application of the principles of accretion or reliction, by order of a court of competent jurisdiction or by application of the principles of eminent domain.

**14.~~9.9~~10.11. Nonconforming Lighting.**

**14.10.11.1. Change and Replacement.** Nonconforming lighting shall only be changed or replaced with conforming lighting, except for the periodic replacement of bulbs, as necessary.

**14.10.11.2. Moving.** Nonconforming lighting shall not be moved to any other location unless the move results in the entire light being brought into compliance with all applicable regulations of this SLDC.

**14.10.11.3. Loss of Nonconforming Status.** If a light is destroyed or rendered inoperable for any reason other than failure of the bulb it shall not be repaired unless such repair will bring the light into compliance with all applicable regulations of this SLDC.

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