Santa Fe County

Sustainable Land Development Code

Public Review Draft, September 2012

Contents

Chapter 13 – Housing and Fair Housing

Chapter 14 – Inspections, Penalties and Enforcement

Appendix A: Rules of Interpretation, Definitions and Acronyms

Appendix B: Use Matrix

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 §3-18-7 (2003); NMSA 1978 §§3-19-1 et seq. (1965); NMSA 1978 §§3-18-1 et seq. (1965), and 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, § 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; 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 the SLDC and the accompanying zoning map.

1.4. PURPOSE AND INTENT.

1.4.1. The SLDC, all amendments to the SLDC, shall be designed 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 shall 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 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;

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, and are not legislatively required by the SLDC, 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 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.

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. 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 ("AFPA"); 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 gray 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 and horizontal consistency of the SLDC and related land use, building, housing, public and private utility and environmental codes, with: the SGMP, Area, District and Community Plans; the CIP; the Official Map; and related regional, state and federal legislation, plans and programs;

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

1.5.7. 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 adoption of the SLDC, the following are hereby repealed in their entirety: the Flood Prevention and Stormwater Management Ordinance of 2008-10; the Santa Fe County Land Development Code, Ordinance 1996-10; together with all amendments thereto; the original Santa Fe County Land Development Code Ordinance No. 1980-6. Ordinances No. 2000-8, 2000-12, 2000-13, 2002-02, 2002-9, 2003-7, 2005-08, 2006-10, 2006-11, 2007-2, and 2008-5 shall remain in effect until amended following adoption of revised community plans that are consistent with the SGMP and this ordinance. 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 state, federal, regional, city, county, school, authority, assessment or public improvement district, public or private utility, and Pueblos located in the unincorporated portion of the County, 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 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 higher 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– Definitions and Rules of Interpretation, 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. Application for Development Approval. Any application for a development approval, including but not limited to: rezoning; establishment of an overlay zone; amendment to the SLDC; development of countywide impact; amendment to the SGMP or to an Area, District or Community Plan; a conditional use permit; variance; or development permit; for which a complete application was submitted before authorization of publication of title and general summary of this SLDC by the Board, may be approved and completed in conformance with the terms and conditions applicable at the time of submittal. If the development approval is not completed within the time allowed under the original development approval or permit, then the development may be constructed, completed or occupied but only in strict compliance with the provisions, criteria and standards of the SLDC as adopted herein.

1.11.2. Permits and Approvals Without Vested Rights. Permits and approvals granted by the Board, County Development Review Committee or the Administrator prior to the effective date of this ordinance 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. Permits and approvals granted by the Board, County Development Review Committee or the Administrator prior to enactment of this ordinance for which rights have vested shall 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 this ordinance shall file an application for approval of a development plan, preliminary development plan or subdivision plat no later than one year after the effective date of this Ordinance, or the approval of the master plan shall expire and standards established by the SLDC shall apply to any application for development of the property.

1.11.5. Approved Preliminary Development Plans or Plats. Properties that have received preliminary development plan or plat approval but have not received final development plan or plat approval, shall within 24 months of said approval 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. Approved and Recorded Final Development Plans, Plats or Permits. 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 before the first reading of this amended 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.

1.11.7. Previously Approved Subdivisions. Reserved.

1.12. CONCURRENT PROCESSING. Applicants are encouraged to concurrently submit applications for multiple approvals on a single project that are typically handled consecutively in order to facilitate, speed up and make more efficient the development approval process. However, each application must 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 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 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. 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 SGMP, 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 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. Hearing Officer. Where the SLDC text or map amendment concerns a matter which is subject to a quasi-judicial hearing as opposed to a legislative matter and has been initiated by an owner/applicant, the Administrator, upon the filing of the report of the pre-application meeting, certification that the application is complete, all SRAs have been filed and all required fees have been paid, shall refer the application to the Hearing Officer to hold a quasi-judicial public hearing.

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

1.15.7. Approval Criteria. In reviewing an application for an SLDC text or map amendment, the Hearing Officer, Planning Commission or 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, Planning Commission or Hearing Officer may attach to the development order approving or conditionally approving the application, any and all applicable conditions and mitigation requirements.

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

1.15.7.2. 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 within the SGMP SDA-1 and SDA-2 areas. Important public policies in favor of the SLDC text or map amendment shall be considered, including but not limited to:

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

2. economic, non-residential and renewable energy development;

3. advancement of public facilities and services and elimination of deficiencies through use of development agreements;

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

5. substantial preservation of open space;

6. sustainable energy efficient construction and neighborhood design; and

7. 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, Planning Commission or Hearing Officer 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, Planning Commission or Hearing Officer 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, and is supported by the goals, policies, and strategies of the SLDC, the SGMP, Area, District or Community plan.

1.15.7.3. 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. Withdrawal after Planning Commission Hearing. No SLDC text or map amendment application shall be received or filed if, during the previous twelve (12) months, an application was received or filed and withdrawn after a public hearing has been held by the Hearing Officer; unless the owner/applicant acknowledges with a sworn affidavit that new, relevant, and substantial evidence is available, that could not have been secured at the time set for the original hearing. The Administrator shall receive and process the new application subject to compliance with all of the provisions of this section.

3. Denial. No application for an SLDC text or map amendment shall be received or filed with the Administrator within two (2) years after the County has denied an application for an SLDC text or map amendment with regard to any portion of the same property.

4. 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.

5. 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.

6. 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.

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 must 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 specify detailed land-use designation used to review specific development proposals and to plan services and facilities.

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.

2.1.3. 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.

2.1.4. 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.

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.

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. Community 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 or the existing community boundary.

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.

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 must 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 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. Proposed amendments to a community plan shall be accomplished through the procedure set forth above.

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. An application to amend any plan described in this chapter 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 twice a year. The Administrator shall collect all applications for such plan amendments from January 1 until June 30, and from July 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 July and January, respectively, 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 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. The Planning Commission shall issue a development order.

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 SGMP amendment, 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:

1. The name, address, telephone number and e-mail address of the CO, and the name, address and telephone number of the person, as applicable, 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 who, 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:

2.2.2.6. 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;

2.2.2.7. 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;

2.2.2.8. 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;

2.2.2.9. 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;

2.2.2.10. 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;

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

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

2.2.2.13. The right to participate in CO leadership retreats and training programs which may include an annual Congress of Community Organizations, as applicable.

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 RO, and the name, address and telephone of the person, as applicable, 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 representatives of the RO and e-mail addresses of the members;

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;

2. 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;

3. 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;

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

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

6. The right to participate in RO leadership retreats and training programs which may include an annual Congress of Community Organizations, as applicable.

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 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, 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; and

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

3.2.2. Final 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 (1965)(as amended) et seq. and NMSA 1978, § 3-21-1 (1965) (as amended) et seq.

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 § 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.

3.3.3.1. Number; Appointments; Residency. The Planning Commission shall consist of seven (7) members, who shall be appointed by the Board. Planning Commission members must 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.

3.3.2.3. 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.

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.

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 following matters:

1. a variance;

2. a beneficial use determination;

3. a rezoning;

4. a planned development district;

5. text or map amendments to the SLDC that requires a quasi-judicial public hearing pursuant to Chapter 1; or

6. a Development of County-Wide Impact (DCI).

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.

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.

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. The later part of the chapter provides specific review and approval requirements for certain applications, including those related to 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:

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 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 § 4.8.2. In making quasi-judicial decisions, the Board, Planning Commission and 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 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;

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 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.

Table 4-1: Procedural Requirements by Application Type.

Application Type	Discretionary Review?	Application Requirements			Review/Approval Process				
							Hearing Required?		
		Pre-application meeting	Pre-application neighborhood meeting	Studies, reports, assessments	Agency review	Approval by Administrator	Hearing Officer	Planning Commission	BCC
Development permit: residential	no	no	no	no	no	yes	no	no	no
Development permit: non-residential, mixed use & multi-family	yes	yes	as needed	see Table 6-1	as needed	yes	no	no	no
Exempt land divisions and other plat reviews	no	no	no	no	as needed	yes	no	no	no
Family transfer	no	no	no	as needed	as needed	yes	no	no	no
Temporary use permit	no	no	no	no	as needed	yes	no	no	no
Minor subdivision - final plat	no	yes	no	see Table 6-1	as needed	yes	no	no	no
Major subdivision - preliminary plat	yes	yes	yes	see Table 6-1	yes	no	no	no	yes
Major subdivision – final plat	*	yes	no	no	no	no	no	no	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
Variance	yes	yes	as needed	no	as needed	no	yes	yes	no
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
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 or community plan	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

* Board approval of a final subdivision plat does not require a formal hearing, but must occur at a regular meeting as described in § 5.8.6.

4.4.3. Pre-Application TAC Meeting. Applicants required to conduct a pre-application meeting with the Technical Advisory Committee will meet to discuss the proposed application prior to filing the 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 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, 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.

4.4.4. Pre-Application Neighborhood Meeting.

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:

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 and existing buildings or structures; the proposed uses for the property; the number of dwelling units and approximate square footage for non-residential uses; 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 meeting or meetings;

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

3. a copy of the notice;

4. a list of persons and organizations attending the pre-application meeting;

5. a copy of all materials distributed at the 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 actions agreed to at the meeting.

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

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

4.4.4.8. The applicant may hold a mediation to address concerns from the neighborhood pre-application meeting.

4.4.5. Application.

4.4.5.1. Application Form. A completed application form, provided by the Administrator, must be submitted before an application will be considered.

4.4.5.2. Attachments. Before an application will be considered or processed it must contain all attachments required by the SLDC.

4.4.5.3. Fees. Before an application will be deemed complete for consideration, all required application fees must be paid to the Administrator.

4.4.5.4. Public Access. All complete applications shall be placed on file and made available to the public.

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 application and attachments within a reasonable period of time. The Administrator shall transmit such determination to the owner/applicant.

4.4.6.3. Subsequent Determination that an Application is Incomplete. If the Administrator subsequently determines that the materials submitted to the review agency or department in support of the application is 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 thirty days.

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 the next available meeting. The development order on completeness, 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. Office of the New Mexico State Engineer (OSE);

4.4.7.2. New Mexico Environment Department (NMED);

4.4.7.3. New Mexico Department of Transportation (NMDOT);

4.4.7.4. the applicable Soil and Water Conservation District;

4.4.7.5. State Historic Preservation Office (SHPO);

4.4.7.6. Tribal Government; 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.

4.4.8. 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. 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 for review and final action to the Planning Commission or the Board.

4.4.9. 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, 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 may take final action, make the appropriate recommendation or take other appropriate action.

4.4.10. 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.

4.4.11. 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.

4.4.12. 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 shall constitute the issuance of the permit. Staff or the Hearing Officer, as appropriate, 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.

4.4.13. 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, 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).

4.4.14. 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 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.

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 shall be final. 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 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 submitted to the Administrator. The Administrator shall provide to the Board a copy of the record of the proceedings below of the decision appealed. The appeal must be placed on the docket of the Board for further consideration on the next available agenda. An appeal of the decision of the Planning Commission shall be *de novo*. 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 BCC Decisions. Any person aggrieved by a decision of the Board of County Commissioners pursuant to this section may appeal to District Court in accordance with NMSA 1978, § 39-3-1.1 (1998)(as amended) and NMRA 2007, Rule 1-074.

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.

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 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 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.

4.6.3.3. Posting. Notice of the public hearing shall be posted 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 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.

4.6.3.5. 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.

4.6.4. 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 certified mail, return receipt requested, to the owners, as shown by the records of the County Assessor, 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 first class mail to the owners, as shown by the records of the County Assessor, 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 Administrator 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 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 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.

4.6.4.5. Supplemental Notice. Reasonable effort shall be made 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.

4.6.4.6. 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 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 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 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 or subdivision that is to be approved administratively shall provide the following notice:

4.6.6.1. Posting. Notice of the public hearing shall be posted 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.

4.6.7. 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;

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 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;

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 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 of more of the area of the lots and of land 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, Sec. 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) consecutive meetings the application shall move to the Board without a recommendation.

4.7.1.4. Minutes. Written minutes shall be prepared and retained with the evidence submitted at the Planning Commission hearing. Verbatim minutes shall be prepared for all applications for which the Planning Commission has final authority and for which a timely appeal has been filed.

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 individually or as a representative. Each person who appears at a public hearing shall take a proper oath and state, for the 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 must 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.

4.8. MINISTERIAL DEVELOPMENT APPROVAL (ADMINISTRATIVE APPROVAL).

4.8.1. 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.

4.8.2. 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 development permit shall be required for any of the following activities:

4.8.2.1. Construction. For construction or renovation of, or an addition to any structure;

4.8.2.2. 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);

4.8.2.3. Signs. For construction or placement of a sign pursuant to Chapter 7;

4.8.2.4. Grading. For grading of a site prior to issuance of another development permit pursuant to Chapter 7;

4.8.2.5. Floodplain Development. For development within a designated Special Flood Hazard Area (SFHA) pursuant to Chapter 7;

4.8.2.6. Utilities. For installation of utilities prior to issuance of other development permits pursuant to the SLDC pursuant to Chapter 7;

4.8.2.7. Swimming pool. To authorize installation of a swimming pool pursuant to Chapter 10.

4.8.3. Minor Subdivisions. For creation of a minor subdivision pursuant to Chapter 5.

4.8.4. Exemptions, Divisions and Other Plat Reviews.

4.8.4.1. Exempt land divisions. To authorize an exempt land division listed in § 5.4.

4.8.4.2. Plat Vacation. To authorize a vacation plat pursuant to § 5.10.

4.8.4.3. Final Subdivision Plats. To obtain a final subdivision plat pursuant to § 5.8.

4.8.4.4. Subdivision Amendment Plat. To authorize an amendment to an approved final subdivision plat pursuant to § 5.11.

4.8.4.5. 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.

4.8.5. Family Transfers. For approval of a property transfer to a family member in accordance with § 5.4.3.2.

4.8.6. Temporary Use Permits. To permit certain temporary uses pursuant to Chapter 10.

4.9. DEVELOPMENT APPROVALS REQUIRING A HEARING.

4.9.1. Plans and Plan Amendments. For adoption or amendment of certain plans (see Chapter 2) in accordance with the procedures established in Chapter 1.

4.9.2. SLDC Text Amendments. For an amendment to the text of the SLDC pursuant to Chapter 1.

4.9.3. Map Amendments and Rezoning. For an amendment to the zoning map (rezoning) pursuant to Chapters 1 and 8.

4.9.4. 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.

4.9.5. Subdivisions. For approval of major subdivision plans in accordance with Chapter 5.

4.9.6. 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.

4.9.6.1. 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).

4.9.6.2. 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. Every CUP application shall be, at a minimum, made to comply with all requirements contained in the SLDC.

4.9.6.3. Application. An applicant may apply for a CUP by filing an application for discretionary development approval with the Administrator. A site development plan is required for a CUP and shall include any SRAs required pursuant to Table 6-1 in Chapter 6.

4.9.6.4. Review. The application shall be referred to the Planning Commission for the holding of a quasi-judicial public hearing.

4.9.6.5. Approval Criteria. Before any conditional use permit may be approved, it must 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 from 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.

4.9.6.6. 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

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 guarantee 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. Require that a development agreement be entered into by the owner/applicant to carry out all requirements, conditions and mitigation measures.

4.9.6.7. 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 §4.9.6.8.

4.9.6.8. Amendments. An amendment is a request for any enlargement, expansion, greater density or intensity, relocation, 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 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.

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.

2. Major Amendments. Any proposed amendment, other than minor amendments provided for in §11.17.11.1, shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original CUP development approval.

3. 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 filed in the office of the Administrator.

4.9.6.9. Expiration of CUP. The development order granting a CUP shall be void after two (2) years, but may be renewed by the Planning Commission for up to one (1) additional year, unless substantial construction or operation of the building, structure or use authorized by the CUP has commenced. No further extension 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.

4.9.7. Variances.

4.9.7.1. 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. This section pertains specifically to the provisions of the SLDC relating to height, area and yard requirements. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize the owner to establish a use of land that is otherwise prohibited in that zoning district.

4.9.7.2. Process. All applications for variances will be processed in accordance with Chapter 4.

4.9.7.3. Applicability. When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC.

4.9.7.4. Review criteria. A variance may be granted only where a literal enforcement of the SLDC provisions would result in unnecessary hardship for the landowner, which typically involves the deprivation of rights commonly enjoyed by other properties in the same zoning district. The planning commission may grant a variance request:

1. Where the request is not contrary to the public interest; and

2. Where, owing to special conditions, a literal enforcement of the code will result in unnecessary hardship;

3. So that the spirit of the SLDC is observed and substantial justice done; and

4. So that the goals and policies of the SGMP are implemented.

5. In addition, the planning commission must find that the applicant's request represents a minimum easing of the code requirements to make possible the reasonable use of the land, building or structure.

4.9.7.5. 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.

4. The planning commission may require, as a condition of approval, that the applicant sign a development agreement to ensure completion of any public improvements related to the approved variance**.**

4.9.7.6. Administrative variance/minor deviations. The Administrator is authorized to approve administrative variances from all dimensional requirements of the SLDC up to ten percent of the required dimension, but only upon a finding that the result is consistent with the intent and purpose of this code and not detrimental to adjacent or surrounding properties.

4.9.8. Beneficial Use and Value Determination (BUD).

4.9.8.1. 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.

4.9.8.2. 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, each applicant for a development project, once denied development approval or granted conditional development approval, shall be required to exhaust all administrative remedies, and apply 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 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.

4.9.8.3. Timing. An application for a BUD shall be within one (1) year 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 as established by the Board.

4.9.8.4. Actions by the Administrator. 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.

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.

4.9.8.5. 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 §4.8.2. 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 intervenor 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 evidences, testimonial or documentary submitted, rulings on objections to evidence, and a written recommendation 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 regulation, SGMP or area plan policy, development order or other action that resulted in the recommendation for relief; and

ii. The date the SLDC regulation, SGMP or area plan policy, or other final action of the County affected the property so as to necessitate relief.

4.9.8.6. Actions by the Board.

1. The Board shall, within thirty (30) calendar days of receipt of the Hearing Officer's recommendation, set the matter for a public hearing. The Administrator shall provide notice pursuant to §4.6 and the owner/applicant and any other interested party shall be provided an opportunity to be heard 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 SGMP, or applicable area plan.

4.9.8.7. 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.

4.9.9. Nonconforming Uses.

4.9.9.1. 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.

4.9.9.2. 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 may be continued in accordance with the provisions of this article.

4.9.9.3. 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:

1. does not conform to the current regulations prescribed in the district in which such use, structure or land is located; or

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

3. was in existence and lawfully constructed, platted, located and operating prior to, the regulations that made such use, structure or land nonconforming.

4. The nonconforming use, structure or land has been operating since the time that the use, structure or land first became nonconforming without abandonment.

4.9.9.4. 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.

4.9.9.5. 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 condition, in accordance with an official order of a public official.

4.9.9.6. Tenancy and Ownership. The status of a nonconformity is not affected by changes of tenancy, ownership or management.

4.9.9.7. Nonconforming Uses.

1. Change of Use. A nonconforming use shall not be changed to any use other than to a use that is:

a. Similar to the previously established use;

b. The same or less intensive and nonconforming than the previously established use; or

c. Allowed in the zoning district in which it is located.

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. 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. 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. 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. 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. 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.

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. 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;

b. The change or expansion does not confer a privilege upon the owner/applicant;

c. 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. All nonconforming signs shall be brought into compliance with the requirements of Chapter 7 of the SLDC;

e. 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; and

4. Loss of Nonconformity Status.

a. 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. Accessory Uses. No use that is accessory to a principal nonconforming use shall continue after such principal use has ceased or terminated.

4.9.9.8. 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.

1. Reuse and Expansion. A nonconforming structure may be enlarged or expanded if the expansion does not increase the extent of nonconformity.

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.

3. Nonconforming Residential Structures. A residential structure that was established in accordance with all regulations in effect at the time of establishment shall not be deemed nonconforming solely due to the fact that it does not comply with the maximum density standards of 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.

4.9.9.9. Nonconforming (Legal) Lots of Record.

1. 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].

2. If the owner/applicant has a notarized document or a document with the 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.

3. 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.

4.9.9.10. Uses for Nonconforming Lots.

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.

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.

3. Prohibition on Reduction of Size. A nonconforming lot may not be further reduced in size.

4.9.9.11. Nonconforming Lighting.

1. Change and Replacement. Nonconforming lighting shall only be changed or replaced with conforming lighting, except for the periodic replacement of bulbs, as necessary.

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.

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.

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 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 approval of the Administrator.

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.

5.4. EXEMPT LAND DIVISIONS.

5.4.1. Applicability. Certain land divisions are not deemed subdivisions under New Mexico law (§47-6-2 NMSA 1978) and therefore are not subject to the subdivision requirements of this Chapter. Such divisions are referred to as exempt land divisions and are listed in §5.4.3 below. Regardless of being exempted from subdivision requirements, these exempt land divisions remain subject to all other provisions of the SLDC and therefore require review and approval by the Administrator. 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.

5.4.3.1. Lot Line Adjustment. 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 may not be used as a means for recognizing lots created prior to the effective date of the SLDC for purposes of avoiding the requirements of this Chapter. A lot line adjustment is inappropriate if the proposed lot is so altered that none of the original lot lines are preserved, and any such proposal will be treated as a replat or a subdivision pursuant to this Chapter.

5.4.3.2. Family Transfer. The 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. The 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. The sale or lease of apartments, offices, stores or similar spaces within a building.

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

5.4.3.6. Severance of Mineral Interests. The 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. The division of land created by court order where the order creates no more than one parcel per party.

5.4.3.8. Grazing or Farming. The 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. The division of land to create burial plots in a cemetery.

5.4.3.10. Security Interests. The division of land created to provide security for mortgages, liens or deeds of trust; provided that the division of land is not the result of a seller-financed transaction.

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

5.4.3.12. Certain Donations. The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college or other institution with a defined curriculum and a student body and faculty that conducts classes on a regular basis; or 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. The sale, lease or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five-year period; provided that a second or subsequent sale, lease or other conveyance from the same tract of land within five years of the first sale, lease or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act 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.

5.5. SUBDIVISION CLASSIFICATION AND PROCEDURES.

5.5.1. Classification. For purposes of this Chapter, subdivisions are classified as either major or minor depending upon subdivision type. Table 5-1 indicates which types of subdivisions are classified major and minor.

Table 5-1: Classification of Subdivisions.

<table>
<tr><th>Major Subdivisions</th><th>Minor Subdivisions</th></tr>
<tr><td>Type One: 500+ parcels*</td><td rowspan="2">Type Three (minor): 2-5 parcels*</td></tr>
<tr><td>Type Two: 25-499 parcels*</td></tr>
<tr><td>Type Three (major): 6-24 parcels*</td><td rowspan="2">Type Five: 2-24 parcels**</td></tr>
<tr><td>Type Four: 25+ parcels**</td></tr>
</table>

* 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.

5.5.4.2. Minor Subdivision. In the case of minor subdivisions, the procedure shall include administrative approval of the final plat in a single step known as summary review. Preliminary plat review is not required for minor subdivisions.

5.5.5. Compliance with SLDC. All subdivisions must 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. Table 5-2 illustrates the time required to review and approve a typical subdivision application.

Table 5-2: Timing of Subdivision Approval.*+

	Days					
	0	**10**	**40**	**70**	**100**	**+0** **+30**
Preliminary plat (major subdivision)						
Application deemed complete	●					
Administrative review						
Agency/Pueblo review*						
BCC hearing				●		
BCC action					●	
Final plat (major)						
Application deemed complete						●
Administrative review						
BCC action						●
Minor subdivision plat						
Application deemed complete	●					
Administrative approval (30 days)		●				

* If an adverse opinion is provided, deadlines are extended in accordance with §5.7.5.

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 only of a final plat by the Administrator (no preliminary plat required), minor subdivisions still must 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 § 47-6-11(M) NMSA 1978, the Board hereby delegates its approval authority for minor subdivisions to the Administrator.

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.

5.6.3. 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.

5.6.4. Limitation. Any tract of land originally created through the summary review process may not be further subdivided via summary review if the total number of tracts created from the parent tract is to exceed five (5) within a period of seven (7) years from the date of recording of the original plat. The language of this section shall be referenced in any disclosure statement prepared in conjunction with approval of a minor subdivision.

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 § 47-6-17 NMSA 1978;

5.7.3.2. All documentation required by § 47-6-11 NMSA 1978 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

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.

5.7.4.3. The application shall provide proof of legal access to the property from a public road.

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;

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 § 67-3-16 NMSA 1978;

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 § 47-6-14 NMSA 1978.

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.

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 § 47-6-11 NMSA 1978. 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 § 47-6-14 NMSA 1978 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 § 47-6-1 NMSA 1978, 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;

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; or

4. 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 two (2) years from the date of preliminary plat approval. Prior to the expiration of the approved or conditionally approved preliminary plat, the applicant may submit an application for extension for a period of time not to exceed a total of three (3) years 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 § 47-6-3 NMSA 1978, 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; and

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

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 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

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. The owner shall deliver a title insurance policy insuring the interest of the party receiving the dedication of all dedicated lands and improvements in the amount of their fair market value as of the date of dedication.

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 guarantee 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.

5.8.5. Development Agreement. All major subdivisions shall enter into a 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 §4.5.6.

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. bonds or other acceptable financial security have been deposited with the County;

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

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

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. 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.

5.9. 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.

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 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. The applicant shall cause all grading, excavations, open cutting, and similar land surface disturbances to be mulched or otherwise protected. 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.

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

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 **c**urb 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 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;

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 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.

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.

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,

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;

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 § 47-6-8 NMSA 1978 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 § 47-6-8 NMSA 1978, 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 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 § 39-3-1.1 NMSA 1978.

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 as 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 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 service 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. Role of SRAs in Application Review. The findings, conclusions and recommendations of the SRAs shall be become part of the record of the public hearing and shall be utilized as substantive standards with a presumption of validity for the findings, conclusions, recommendations and terms of the development orders issued by such agencies as to whether the application for development approval meets the requirements of the SLDC and should be approved, approved with conditions and mitigation requirements, or denied.

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.

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

	SRA Type				
Application Type	TIA	APFA	WSAR	FIS	EIR
Development Permit (up to 10k sf)	yes*	no	no	no	no
Development Permit (over 10k sf)	yes	yes	yes+	yes	yes
Minor subdivision	yes	yes	no	no	no
Major subdivision	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	yes	yes+	as needed**	as needed**
Development of Countywide Impact (DCI)	yes	yes	yes+	yes	yes

* If project generates over 100 trips/day based on the Institute of Transportation Engineers' *Trip Generation 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.
+ A WSAR is not required if the applicant has received a letter stating that the County water utility is ready, willing and able to serve the development.

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 applicant for discretionary development approval shall prepare their own SRAs as required in this Chapter. All such consultants shall disclose any information as to conflict of interest, financial interests, or other disqualifying interest that would prevent their ability to provide to the County fair and independent SRAs. 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 and for a Hearing Officer where required.

6.2.2. County prepared. 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.

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 and of all property in common ownership, 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 wells; 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, 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 11%; wildlife and vegetation habitats and habitat corridors within five (5) miles 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 five (5) miles 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 five (5) 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 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 must 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 must 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 must demonstrate

that the significant environmental effects and impacts of the proposed project were adequately investigated and discussed and it must permit the significant adverse effects or impacts of the project to be considered in the full environmental context.

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. 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. Any and all potential effects on climate change attributable to the development project must be thoroughly analyzed, including necessary mitigation to minimize such effects and impacts. Applicant must comply with all federal and New Mexico statutes and regulations regarding climate change.

6.3.9. Other Adverse Effects. Discuss other characteristics of the project which may significantly affect the environment, either individually or cumulatively. 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. The EIR shall identify mitigation measures for each significant environmental effect identified in the EIR, including but not limited to: inefficient and unnecessary consumption of water and energy; pollution attributable to the project; contribution to climate change; water and air pollution; degradation of environmentally sensitive lands; sprawl; and noise, vibration, excessive lighting, odors or other impacts.

> **6.3.10.1.** 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.

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

6.3.10.3. 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.

6.3.10.4. Mitigation measures described must be fully enforceable through conditions or a development agreement.

6.3.10.5. 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 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.

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. An EIR should not discuss other project effects and impacts which do not result in part from the project being evaluated. 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 the proposed project based upon the maximum density in the project and relevant affected areas. The APFA must study the impacts of the proposed development on all of the following:

6.4.2.1. Roads. The APFA must 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 Institute of Transportation Engineers' Trip Generation Manual. The APFA shall describe the means by which the transportation capacity of the system will be expanded without destroying historic and traditional built environment.

6.4.2.2. Fire, Law Enforcement, and Emergency Response Services. For Law Enforcement (including emergency dispatch), and Fire and Emergency Response, the APFA must 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 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 AFPA is required for water. For a proposed development that does not propose the use of a public water system, the APFA must 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. In SDA-3, whether a proposed well or wells is available to provide service, subject to the regulations set forth for residential development in SDA-3, found in Chapter 7 of the SLDC;

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

d. Whether rainwater capture and reuse system will be used;

e. 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;

f. 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 must 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 sewerage treatment.

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.

6.4.3. 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**:**

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. 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.

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. All applications for which no prior discretionary development approval has been granted for the same project, shall be analyzed with respect to the availability of adequate potable water in a WSAR.

6.5.3. The WSAR shall contain a detailed analysis of the following matters: existing system capacity of the public water supply proposed for use or a publicly regulated private system; 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.

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 a 99 year water supply for the proposed development.

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

1. all application materials;

2. a copy of the latest Sanitary Survey from the New Mexico Environment Department 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 pursuant to NMSA 1978, §§ 72-1-5, 72-5-23, 72-5-24 or if the proposed development is within a declared underground water basin, §§ 72-12-3 or 72-12-7;

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 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;

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 must 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;

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

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 must 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 99-year projection are insufficient, then the applicant must 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 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. The County shall include an evaluation of water quality, quantity and potential pollution of surface or underground water assessments 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 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 single or multiple units or aquifers within a two (2) mile radius of the project site;

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 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. Fees. The applicant shall deposit cash, a certified check, bank check or letter of credit, to cover all of the County's expenses in reviewing the Traffic Impact Assessment, engaging

consultants, and for a Hearing Officer to conduct the first public hearing on the Traffic Impact Assessment.

6.6.3. General Requirements. The traffic impact assessment 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. Provide a basis for applicant financing of all County and State road improvements as shown on the CIP through use of development agreements or Improvement District Assessments for capacity needs;

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;

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. Establish the monetary contribution that the applicant will be required to provide to the County or to any established assessment or improvement district for the provision of all roads and highways shown on the CIP, the need for which is generated by the project;

6.6.3.16. Ensure that the proposed road layout is consistent with the public roadway design standards;

6.6.3.17. Ensure the proper design and spacing of site access points and identify where limitations on access should be established;

6.6.3.18. Ensure that potential safety problems on all roads to be used within the County have been properly evaluated and addressed; and

6.6.3.19. 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. V/C ratio. A volume-to-capacity (V/C) ratio of 0.80 shall not be consistently exceeded on any highway, and a V/C ratio of 0.90 shall not be consistently exceeded on any arterial or collector road. "Consistently" means that the V/C ratios are exceeded based on average daily peak-hour traffic counts, projections, or estimates.

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. No development project traffic shall increase the traffic on a residential road with at least 300 average daily trips by more than 15%, and shall contribute no more than 10% of the traffic on any road segment providing residential access.

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.

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.

6.6.4.9. Access Roads. Access roads shall equal or exceed 1.08 miles per section of road and shall contain a minimum width of twenty (20) feet paved surface based upon County road construction standards for heavy vehicles. Access roads shall be sited in a manner that mitigates or minimizes the impact on the environment and neighboring land uses.

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 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.

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.

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 shall 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 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. Process for the Review and Preparation of a Traffic Impact Assessment. This section provides an outline of the steps to be included in the preparation and review of a traffic impact assessment.

6.6.6.1. The traffic impact assessment shall take into account the CIP for State and County road system improvement.

6.6.6.2. The traffic consultant shall meet with the applicant and the public to identify study issues, assumptions, horizon years, and time periods to be analyzed; analysis procedures; available sources of data; past and related studies; assessment requirements; and other topics relevant to study requirements.

6.6.6.3. Following its initial completion, the traffic impact assessment shall be submitted to the Administrator for distribution to the County and State highway staffs involved in the construction and maintenance of public roadways serving the project.

6.6.6.4. Within 15 working days, County and State staff shall complete initial reviews to determine the completeness of the study and shall provide a written summary to the traffic consultant outlining the need for any supplemental analysis to adequately address the traffic service standards.

6.6.6.5. Following a determination that the technical analysis is complete, the traffic consultant shall prepare a report outlining recommendations that have been developed to address the findings and conclusions in the study, regarding the proposed development's needs and impacts on the transportation system.

6.6.6.6. The traffic consultant's recommendations will be presented to the Board as part of the proceedings for approval of the application for development.

6.6.6.7. Mitigation based on the conclusions and findings resulting from the traffic impact report or analysis shall be required of the applicant. A development agreement, detailing the applicant's responsibilities and the County's responsibilities for implementing identified mitigation measures, shall be prepared following receipt of the traffic impact report.

6.6.7. Traffic Impact Assessment Findings. If the traffic consultant finds that the proposed project will not meet applicable service-level standards, the traffic consultant shall recommend one or more actions by the County or the applicant, including but not limited to:

6.6.7.1. Reduce the size, scale or scope of the development to reduce traffic generation;

6.6.7.2. Divide the project into phases and authorize only one phase at a time until traffic capacity is adequate for the next phase of development;

6.6.7.3. Dedicate a right-of-way for road improvements;

6.6.7.4. Construct new roads;

6.6.7.5. Expand the capacity of existing roads;

6.6.7.6. Redesign ingress and egress to the project to reduce traffic conflicts;

6.6.7.7. Reduce background (existing) traffic;

6.6.7.8. Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development;

6.6.7.9. Integrate design components to reduce vehicular trip generation;

6.6.7.10. Implement traffic demand management strategies (e.g., carpool or vanpool programs, and flex time work hours), to reduce vehicular trip generation; or

6.6.7.11. Recommend denial or conditional approval of the application for the development project.

6.6.8. Expiration of TIA. A TIA shall expire and be no longer valid for purposes of this section on a date which is twelve (12) months 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.

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 determine whether, and to the extent, a development project is fiscally and economically positive, meaning forthcoming revenues (operating and capital) exceed the forthcoming costs (operating and capital) of the development project.

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 applicable codes adopted by the State of New Mexico (State Fire Marshal and Regulation and Licensing Department), including and as amended:

7.2.1. International Fire Code, 2003 edition (or other applicable fire code as established by NMAC 10.25.5.18).

7.2.2. 2009 New Mexico Commercial Building Code.

7.2.3. 2009 New Mexico Residential Building Code.

7.2.4. 2009 New Mexico Earthen Building Materials Construction Code (Phase III).

7.2.5. New Mexico Non-Load Bearing Baled Straw Construction Building Code (Phase III).

7.2.6. 2009 New Mexico Energy Conservation Code.

7.2.7. 2009 New Mexico Existing Building Code.

7.2.8. 2009 New Mexico Historic Earthen Buildings.

7.2.9. 2009 New Mexico Plumbing Code.

7.2.10. 2009 New Mexico Swimming Pool, Spa and Hot Tub Code

7.2.11. 2009 New Mexico Mechanical Code.

7.2.12. 2009 New Mexico Solar Energy Code.

7.2.13. 2011 New Mexico Electrical Code.

7.2.14. 2007 New Mexico Electrical Safety Code.

7.2.15. International Wildland-Urban Interface Code.

7.2.16. Santa Fe County Fire Code (as applicable).

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. Residential lots shall not front on a collector road or arterial road. 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.

7.3.1.5. Double Frontage Lots. Double frontage or through lots are prohibited except in commercial or industrial districts.

7.3.1.6. Flag Lots. Flag lots are prohibited.

7.3.1.7. Reduction of Lot Size by Governmental Action. Where the owner of a legally platted lot or successor in title 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 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. This section does not apply to flag lots.

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. Compliance With Zoning Designation. Unless otherwise provided herein, all development shall meet the setback requirements applicable to the zoning district in which the property is located, as set forth in Chapter 8.

7.3.3.3. Road Setbacks Shown on Plats. Front and side setbacks adjacent to roads shall be shown on all plats as required by the SLDC. A person may elect to impose greater setbacks.

7.3.3.4. Federal Highway Setbacks. All structures shall be setback at least 150 feet from the road pavement of a federal highway.

7.3.3.5. Tribal Lands Setbacks. All structures shall be setback at least twenty-five (25) feet of Tribal Lands.

7.3.3.6. 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.

7.3.3.7. 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 shall be 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. Garages with alley access may extend into the rear setback.

7.4. ACCESS AND EASEMENTS.

7.4.1. General Access Requirement. All development shall demonstrate that 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 is provided and meet the requirements of the SLDC.

7.4.2. Access and Utility Easements.

7.4.2.1. Access Easements. Legal access shall be provided through an appropriate easement or deed. Roads shall be privately owned and maintained, with easements granted for public use, ingress and egress. Roads may be dedicated for public ownership and maintenance only if accepted by the Board and where such roads comply with the standards and requirements of the SLDC.

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 ten (10) feet. 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 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 the road or driveway. Utility trenches shall be placed within easements, in or adjacent to 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 basins, water courses, acequias, drainage conveyances, channels or streams, shall be included in drainage easements.

7.4.4. Trail Easements. When and where provided, trail easements shall have a minimum width of 20 feet to provide access for maintenance, but may be less where necessitated by 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 cross-access easement shall be provided to adjoining properties that front on the same road, which have been or may be developed for nonresidential, multi-family or mixed use.

7.4.6.2. Cross-access easements shall have a minimum width of 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 shall be waived were unusual site conditions render such an easement of no reasonable benefit to adjoining properties and to public safety.

7.5. FIRE PROTECTION.

All development shall comply with the International Fire Code, 2003 edition (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 and multi-family development, and to all subdivisions.

7.6.2. Purpose and Intent. The standards and guidelines 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 and reduces fire risks;

7.6.2.2. Buffer or screen visually unattractive land uses from roadways and residential areas;

7.6.2.3. Provide habitat for wildlife;

7.6.2.4. Play a role in the prevention of 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 landscape treatment and improvements are designed, installed and maintained so that they conform to approved Landscaping Plans, vegetation management plans and fire protection plans as applicable;

7.6.2.9. Preserve both native vegetation and landscapes and to protect the visual and structural integrity of hillsides or steep or mountainous areas from the effects of development by revegetation of disturbed areas; and

7.6.2.10. Promote conservation of water through the use of drought tolerant plant materials and xeriscape techniques.

7.6.3. General Requirements for all Landscaping. This subsection 7.6.3 shall apply to all development within the County.

7.6.3.1. Preservation of Existing Vegetation. To the extent practicable, existing significant vegetation and landscape features shall be preserved and incorporated into landscape plans. Existing vegetation may be used, but shall be protected during site development. Clearing of vegetation shall be limited to the development site whenever to the extent practicable, and all cleared areas not subject to more specific requirements of this section shall be replanted to approximately the original density and vegetation mix.

1. General Preservation Standards.

a. Transplantable trees to be displaced by construction shall be the primary source for required screening, buffering or other landscaping purposes.

b. Native trees, shrubs and landscape shall be retained within any landscape areas set aside for buffers. Retention of the natural vegetation will reduce the requirement for new planting.

c. Native trees which are to be preserved shall be protected during construction from such hazards as damage by vehicles and equipment, compaction of soils, and spills of contaminants by temporary fences or barricades erected at the perimeter of the critical root zone. Permanent installation of such techniques as retaining walls, terracing and tree wells with drainage shall be used to protect trees in areas where significant grade changes are approved.

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 with drainage should be utilized to protect significant trees in areas where significant grade changes are being made.

c. Significant trees shall not be removed from the slopes greater than thirty percent (30%).

7.6.3.2. Xeriscape Requirements. Native or introduced vegetation that is drought and/or freeze resistant shall be used for landscaping to conserve water use (once the plants are established) and to promote regionally-appropriate landscaping. Botanical materials shall be chosen that are appropriate to microclimates throughout the County, minimize energy demand, and fit within the water budget or water use plans for the development. A list of suitable native plants shall be on file with the Administrator.

7.6.4. Buffer Standards for Subdivisions and Commercial/Industrial Zones.

7.6.4.1. Required Open Space Buffer.

1. All subdivisions shall provide a minimum open space buffer of 100' between a lot and any highway, major arterial road or railroad.

2. All commercial and industrial zones shall provide a minimum open space buffer of 100' between any adjacent residential zones.

7.6.4.2. Alternative to Open Space Buffer. As an alternative to the open space buffer required under 7.6.4.1., one of the following alternative buffer plans may be provided:

1. A minimum open space buffer of seventy-five (75) feet, of which twenty-five (25) feet shall be a landscaped buffer planted with trees with a minimum height at maturity of twenty (20) feet.

a. The trees shall be planted to achieve a ratio of one tree for every 350 square feet of the perimeter landscape buffer.

b. Existing trees may be utilized in determining the number of trees to be planted, provided that at least one third of the trees in the buffer are evergreens.

2. A minimum open space buffer of fifty (50) feet, of which twenty-five (25) feet shall be a landscaped buffer planted with a combination of trees with a minimum height at maturity of thirty (30) feet and shrubs with a minimum height at maturity of twelve (12) feet.

a. The trees shall be planted to achieve a ratio of one tree for every 300 square feet and one shrub for every 350 square feet of the landscape buffer.

b. Existing trees may be utilized in determining the number of trees to be planted, provided that at least 1/3 of the trees in the buffer are evergreens.

3. Further reductions of landscaping elements, but not the open space setback, may be considered where a combination of trees and the construction of a solid masonry wall is proposed, or a combination of trees and an earth berm of three to four feet in height is to be constructed. The ratio of trees to square footage will depend on the variables of the site and nuisance factors to be mitigated.

7.6.4.3. Uses Allowed in Buffer Areas. Pedestrian, bike or equestrian pathways or trails, leachfields and retention ponding are allowed within buffer areas on road frontages provided that no plant material is eliminated and the total width of the buffer is maintained.

7.6.5. Road Frontage Landscaping for Non-Residential Uses. 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 along any highway or arterial road, and a landscaped area ten feet in width shall be provided along any collector or local road in accordance with the following standards:

7.6.5.1. All frontage areas shall be landscaped with a combination of trees, shrubs, grasses and flowers, ground cover or other organic and inorganic materials that create an attractive appearance. Such landscaping within public rights-of-way shall be subject to the approval of appropriate public agencies and the requirements of this subsection.

7.6.5.2. Public rights-of-way between the front property line and the road may be landscaped and maintained by the property owner retaining native materials or using grass, groundcovers, or low growing shrubs having a maximum mature height not exceeding two feet, or be treated with a non-vegetative cover such as bark mulch or gravel.

7.6.5.3. Use of evergreens and canopy or shade trees should predominate in road frontage areas; ornamental trees and shrubs and smaller native trees may be interspersed in groups which simulate natural tree stands.

7.6.5.4. Landscaping materials shall be placed to screen the bulk of buildings and provide visual relief and protection from high summer temperature for large areas of impervious surface (buildings, paving, etc).

7.6.5.5. In order to avoid a tunneling effect where a development borders on a highway or arterial road for more than 1,000 feet, developers or builders shall vary the masonry structures, fences or walls with living plants.

7.6.6. Screening of Residential Development. *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.*

7.6.7. Parking Area Landscaping. Interior parking lot landscaping shall be designed to shade the parking spaces and provide a visual break to the parking lot surface in accordance with the requirements of this subsection.

7.6.7.1. Applicability. The interior parking lot landscaping standards of this section shall apply to all off-road parking lots containing forty (40) or more parking spaces, or 12,000 square feet, whichever is less; provided, however, that the standards shall not apply to vehicle/equipment storage lots or vehicle and equipment sales lots.

7.6.7.2. Relationship to Other Landscaping Standards. Landscaping provided to meet the Interior Landscape standards of this subjection shall not be counted towards meeting a project's perimeter landscape buffer requirements.

7.6.7.3. Planting Area. For parking areas containing 100 or more parking spaces, at least 10 percent of the interior area of such off-road parking lots shall be devoted to landscape planting areas. For parking areas containing between forty (40) and ninety-nine (99) parking spaces, five percent of the interior of such off-road parking lots shall be devoted to landscape planting areas.

7.6.7.4. Landscape Islands. Landscaped islands shall be provided at the end of each parking row with ten or more spaces. Terminal islands shall have minimum interior dimensions of at least five feet in width and fifteen (15) feet in length. At least one tree shall be provided within each terminal island. All tree planting areas shall have a minimum width of seven feet.

7.6.7.5. 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. All tree planting areas shall have a minimum width of seven feet.

7.6.7.6. 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 five 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 must be at least seven feet in any dimension; and*

b. *Planting islands parallel to parking spaces must 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.*

7.6.8. Parking Area Perimeter Walls. Perimeter visual screening shall be required for off-road parking areas in the following circumstances:

7.6.8.1. 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, six foot masonry wall or fence.

7.6.8.2. 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.

7.6.9. Means of Compliance. Wherever landscaping or screening are required by this section, the following standards shall apply.

7.6.9.1. 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.

7.6.9.2. 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.*

2. Height. *The height of screening devices shall be measured from the highest finished adjacent grade of the element to be screened.*

7.6.9.3. 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	5-gallon container size and 24 inches tall

7.6.9.4. Irrigation. All landscaped areas shall include a permanent, underground irrigation system to ensure long-term landscape health and growth. Irrigation systems shall utilize storm water, gray water or other non-potable irrigation water. Irrigation system design shall take into consideration the water-demand characteristics of plant or landscape materials used.

7.6.9.5. 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 practices to assure germination.

5. Seeding or planting may be delayed for the optimum germination or planting season.

7.6.9.6. 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 provides adequate buffering; or*

5. *where alternative landscaping is required 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 in residential neighborhoods in order to avoid blighting influences on neighborhoods and public safety problems.

7.7.2. Permit required. A development permit shall be required for the following fences and walls:

7.7.2.1. Residential walls and fences higher than six feet;

7.7.2.2. All walls and opaque fences for nonresidential or multi-family use;

7.7.2.3. All retaining walls higher than four feet;

7.7.2.4. 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;

7.7.2.5. Walls or opaque fences that cross a stream, existing trail, arroyo, acequia or drainage channel; and

7.7.2.6. Any walls or fences built within a safe sight triangle.

7.7.3. Exemptions. The following fences and walls are exempt from the requirements of this section:

7.7.3.1. Construction of walls or fences for agricultural purposes; and

7.7.3.2. Residential walls and fences no higher than six feet.

7.7.4. 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.

7.7.5. Standards.

7.7.5.1. 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 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.

7.7.5.2. 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;

2. Plywood, particle board, paper, and visqueen plastic, pallets, plastic tarp, or similar material; and

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, to provide security, to conserve energy, to protect the night sky and in particular, to prevent the spillover, nuisance or hazard effects of light and glare on adjacent locations and uses of land.

7.8.2. Outdoor Lighting Plan Required. A complete Outdoor Lighting Plan shall be submitted with each Site Development Plan or Development Permit application in accordance with the requirements of this section. Outdoor Lighting Plans shall be drawn to scale and include the following information:

7.8.2.1. Proposed location, mounting height, types of luminaries, and accessory equipment such as shades, deflectors or other housing controlling the direction of light on a surface and the beam direction of any luminaire;

7.8.2.2. Proposed location, mounting height, types of luminaries, and accessory

equipment such as shades, deflectors or other housing controlling the direction of light on a surface and the beam direction of any luminaire;

7.8.2.3. Manufacturers' cut-sheets and drawings showing sections and photometric data showing the angle of cut off of light emissions;

7.8.2.4. Elevations of building facades showing the location of, and shielding devices for, wall mounted luminaires and detailed drawings of the luminaires and accessory equipment to be used;

7.8.2.5. Consideration of lights on adjacent roads and parcels to assure that overlighting does not occur and that cumulative lighting meets standards; and

7.8.2.6. Additional submittals that may be required include, but are not limited to, preparation of a visual impact analysis for alternative types of lighting solutions for the project as those would affect and be seen from adjacent properties and public ways, a comparative analysis of performance standards relating to mounting height, footcandles, footcandle levels and location for various types of lighting which could be developed for the proposed use and types of shields, deflectors and adjustments on orientation or other buffers which could be implemented to mitigate glare, nuisance or hazardous effects of night lighting.

7.8.3. Minimum Standards.

7.8.3.1. General Standards.

1. All outdoor lighting fixtures shall be designed, installed, located and maintained such that nuisance glare onto adjacent properties or roads shall be minimized to the greatest extent practical. Glare onto adjacent properties or roads shall not be permitted.

2. All outdoor lighting shall meet the guidelines and design standards of The IESNA Lighting Handbook, tenth edition, and as amended, in particular Ch. 21, Exterior Lighting and Ch. 22, Roadway Lighting.

3. Illumination levels and uniformity shall be in accordance with current recommended practices of the Illuminating Engineering Society. Recommended standards of the Illuminating Engineering Society shall not be exceeded.

7.8.3.2. Fixtures (electrical luminaries). All outdoor light sources shall be concealed within cut-off fixtures, except as otherwise specified herein.

7.8.3.3. Lamp (Light Source or Bulb) and Shielding Requirements. All fixtures shall comply with the light source and shielding requirements of Table 7-3.

Table 7-3: Lamp Shielding Requirements.

Lamp Type	Shielding	Detailed Standards/Notes
High pressure sodium, incandescent or LED	Full	Full shielding shall permit no light rays emitted by the installed fixture at angles above the horizontal plane running through the lowest part of the fixture, as certified by photometric test report. The photometric report prepared by the fixture manufacturer shall be sufficient.
Metal halide	Full	To be used for display purposes; the light source shall be filtered by a glass, acrylic or translucent enclosure; may be subject to timing devices or restricted hours of operation.
Fluorescent and quartz	Full	Signs constructed of translucent materials and lit from within do not require shielding.
Any light 900 lumens or less	None	None
Halogen	Prohibited, unless approved by Planning Commission	For outdoor display of merchandise or sporting events; may be subject to timing devices or restricted hours of operation.
Mercury vapor or laser	Prohibited	None
Other sources	As approved by Planning Commission	May be conditioned as part of development approval or Temporary Use Permit.

7.8.3.4. Maximum Fixture Height. Maximum fixture height above adjacent grade for all fixtures shall be as follows:

1. Residential uses. No luminaire shall be installed higher than the building(s) on the lot.

2. Nonresidential Uses, Multi-family uses and Parking Lots. No luminaire shall be installed higher than 1.5 times the height of any structure proposed for development or the height limitations of the zoning district, whichever is less.

3. Road Lighting. Standards (upright supports) shall not exceed the height limitations of the zoning district, except on public roads wider than two lanes and arterials where taller standards up to 36 feet may be used. This height limit may be varied by the Administrator if a site specific study clearly demonstrates that use of a taller standard will better achieve the purposes of this section.

7.8.3.5. Uses with Special Lighting Needs (outdoor sporting events, arenas, jails). Such lighting shall be approved by Conditional Use Permit, or in conjunction with other public approval process. The applicant must demonstrate that the proposed height is the minimum required to achieve the purpose of this section including even lighting. Spillover onto adjacent property is prohibited.

7.8.3.6. Illumination Levels. Maximum total outdoor light illumination levels shall not exceed the limits in Table 7- 4. Seasonal decorations 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 of the task. 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: Maximum Illumination Levels.

	Commercial	Mixed Use	Residential
Nonresidential uses			
Total (initial lumens/net acre)	200,000	100,000	50,000
Residential zones			
Total (initial lumens/net acre)	20,000	10,000	10,000

7.8.4. Off-road Lighting.

7.8.4.1. Generally.

1. Fixtures must 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 footcandle measured at any point 10 feet beyond a property line.

3. No outdoor lighting shall be directed towards any adjacent residential use or public road.

7.8.4.2. Pedestrian Way, Loading and Service Illumination. All lamps (bulbs) and light sources designated for pedestrian use, loading or service shall be recessed into any canopy structure, unless a suitable alternative is submitted for approval; provided, however that fully shielded, decorative lamps housing an incandescent lamp of 160W or less for hanging under portals are exempted.

7.8.4.3. Building Illumination. If there is no spill over beyond the building façade, building facades within nonresidential districts may be illuminated with:

1. Ground flood lamps installed close to the structure; and

2. Wall mounted flood lamps shielded so that the light source is not visible.

7.8.4.4. Outdoor Storage, Display and Recreational Facilities. Automatic timing devices may be required for such uses to turn off lighting at specified hours. Control of the distribution of illumination for outdoor recreation areas, outdoor storage areas or outdoor display of merchandise may be subject to additional submittal requirements.

7.8.4.5. Recreational Facilities. Any light source permitted by this section 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 of the following conditions are met:

1. All fixtures used for event lighting shall be fully shielded, or shall be designed or provided with sharp cut-off capability, in order to minimize up-light, spill light, and glare; and

2. The Administrator, Planning Commission or Board may set reasonable hours of operation on outside recreational facilities.

3. All recreational outdoor lighting shall comply with height restrictions as specified in the applicable zoning district.

7.8.5. Road Lighting.

7.8.5.1. When Required. Steet lights are required as follows, except where neighborhood context dictates less lighting and public safety is protected:

1. Along paved roads and roads where curb, gutter and sidewalk are required; and

2. At intersections of any road with a highway or arterial for safety purposes.

3. In addition to the above requirements, the Planning Commission or Board may require additional street lights for major subdivisions or non-residential uses where necessary to protect the safety of motorists and pedestrians due to the particular characteristics or location of a site.

7.8.5.2. Street Light Standards. All street lights shall comply with the following standards:

1. Lighting shall be provided in accordance with the standards set forth by 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 NMDOT standards.

3. LED lighting shall be used in all installations.

4. Street lights shall be located and designed to enhance the safety of motorists and pedestrians during evening hours. Street lights shall be installed so as to create a transition from unlit areas to illuminated areas, continuity and uniformity of lighting, and avoid blind spots or dark shadows which are hazardous to drivers.

5. All street lights shall be designed with power installed underground.

7.8.5.3. Maintenance.

1. Payments for operations, maintenance and energy charges within subdivisions, multi family developments or non-residential developments shall be the responsibility of the developer or homeowners' association. The disclosure statement and owners' association by-laws shall set forth an acceptable method for charging each lot owner for maintenance and operation.

2. Street lights in subdivisions, multi family developments or non-residential developments shall be equipped with electric meters to allow billing to the developer or owners' association.

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. Permit Required. A development permit is required prior to the placement or relocation of any sign. The content 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 8.8.4.

7.9.3. Applicability. The requirements of this section shall apply to all signs, signs not requiring a development permit.

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.

7.9.3. 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 must comply with all requirements of this §7.9. Indirect and reflected illumination shall not exceed ten (10) vertical footcandles in residential and mixed-use districts and twenty-five (25) footcandles in non-residential districts. Direct or interior illumination shall not exceed one hundred fifty (150) footlamberts in residential and mixed-use districts and two hundred fifty (250) footlamberts in non-residential districts.

7.9.3.4. Permanence. All signs must be permanently affixed or attached to the ground or to a structure, except for temporary signs allowed under this section.

7.9.3.5. Electrical. All electrical service to a freestanding sign shall be underground.

7.9.3.6. 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.

7.9.4. 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 §7.9.3 and any other sections of the SLDC that may apply. 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.

7.9.4.1. 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.

7.9.4.2. 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.

7.9.4.3. 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.

7.9.4.4. 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.

7.9.4.5. Agricultural product signs. One sign per road frontage, not to exceed sixteen (16) square feet in area, may advertise the sale of agricultural products.

7.9.4.6. Crop signs. Signs identifying seed brands and varieties in use, test plots, and similar signs that are customary in agricultural production areas.

7.9.4.7. 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.

7.9.4.8. 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 must be removed within five (5) days after the event.

7.9.4.9. 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 §7.9.4.4.

7.9.4.10. Real estate signs. One sign per road frontage is allowed on the property being 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 forty-eight (48) square feet in area and six (6) feet in height. Real estate signs may not be illuminated. Related off-site directional signage shall be treated as directional signage as in §7.9.4.4.

7.9.4.11. 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 rural districts, and thirty-two (32) square feet in area in nonresidential and agricultural/ranching districts. Signs must be removed within five (5) days after the applicable election.

7.9.4.12. 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 must 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 §7.9.6.

7.9.4.13. 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.

7.9.4.14. Flags, noncommercial. Flags displaying the name, insignia, emblem or logo of any nation, state, county, municipality or nonprofit organization.

7.9.4.15. 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 must be removed within one week of final inspection or completion of the project, whichever occurs first.

7.9.4.16. Regulatory signs. Signs having the primary purpose of conveying information concerning rules, ordinances, or laws.

7.9.4.17. 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.

7.9.4.18. 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.

7.9.5. Prohibited Signs. The following signs are not allowed in any zoning district:

7.9.5.1. Rooftop signs and signs that extend above the roof of any building.

7.9.5.2. 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.

7.9.5.3. Strings of light bulbs used for commercial purposes other than traditional holiday decorations.

7.9.5.4. Searchlights, beacons or other similar devices, whether stationary or revolving, used for the purpose of advertising or attracting attention to a property.

7.9.5.5. Signs with any obscene, indecent or immoral matter.

7.9.6. Temporary Construction and Project Marketing Signs. A development permit is required for the following temporary construction and project marketing signs:

7.9.6.1. 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 must 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 §7.9.4.12), but only one temporary construction sign is allowed per property whether it requires a permit or not.

7.9.6.2. 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 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.

7.9.7. Temporary Commercial Signs. 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 legal nonresidential use. A temporary permit shall be issued for a period not to exceed thirty (30) days.

7.9.7.1. 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.

3. balloons and other types of lighter than air objects that have no linear dimension greater than two (2) feet.

7.9.7.2. 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.

7.9.7.3. The permittee shall remove all temporary signs on or before the expiration of the permit.

7.9.8. Signage Requirements for Residential Districts. The following regulations shall apply to all signs in residential districts and residential areas within mixed-use zones.

7.9.8.1. Signage type. In addition to those signs that are allowed without a permit (see §7.9.4), the following identification signs are allowed upon the issuance of a development permit:

1. Multi-family residential. One identification sign for a multi-family 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 legal 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.

7.9.8.2. Height. All freestanding signs shall be limited to six (6) feet in height.

7.9.8.3. 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.

7.9.9. Signage Requirements for Non-residential Districts. The following regulations shall apply to all signs in non-residential districts and non-residential areas within mixed-use zones.

7.9.9.1. 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.

7.9.9.2. 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.

7.9.9.3. 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.

7.9.9.4. 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 15 feet.*

7.9.9.5. 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.

Table 7-5: Allowable Height for Freestanding Signs.

Distance from R-O-W (feet)		Max. height (feet)
at least	but less than	
5	25	5.0
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 10 feet; provided, however, that the setback for monument signs may be reduced to five 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 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.

7.9.9.6. 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 16 square feet in area.

2. If no advertising is present, the area of such public service signs 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.

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.

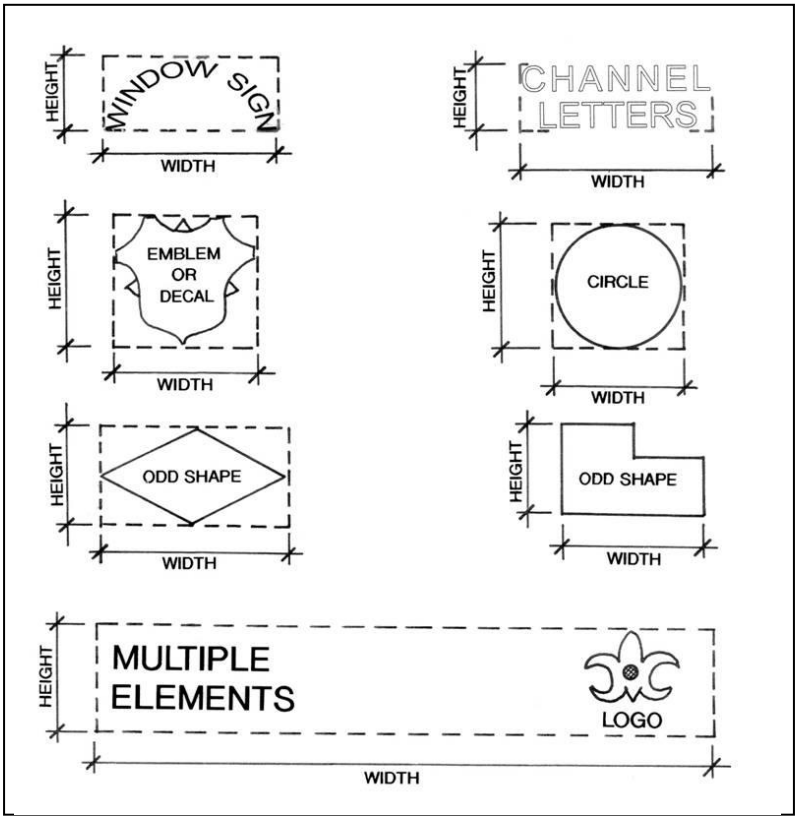
7.9.10. Sign Maintenance. All signs shall be maintained in good condition at all times. All signs shall be kept neatly finished and repaired, including all parts and supports. The Administrator may inspect any sign governed by the SLDC at any time to ensure compliance with this section.

7.9.11. Measurement. The following standards apply to the measurement of all signs.

7.9.11.1. 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.

Figure 7.1: Measurement of Sign Area.

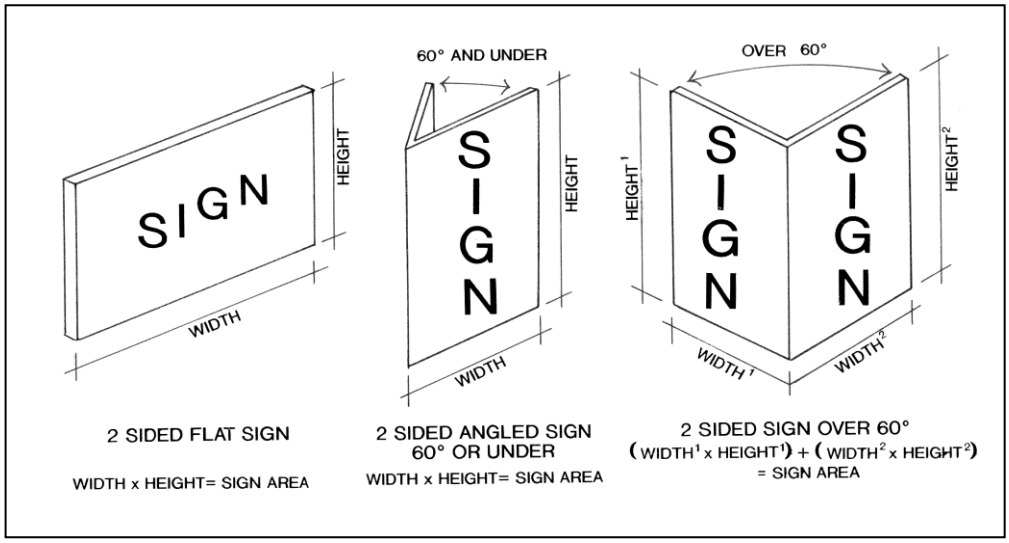


7.9.11.2. Sign area for multi-faced signs. Sign area of multi-faced signs is calculated based on the principle that all sign elements that can be seen at one time or from one vantage point will be considered in measuring that side of the sign. Figure 7.2 illustrates the following two standards:

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.

Figure 7.2: Measurement of Area: Multi-faced Signs.

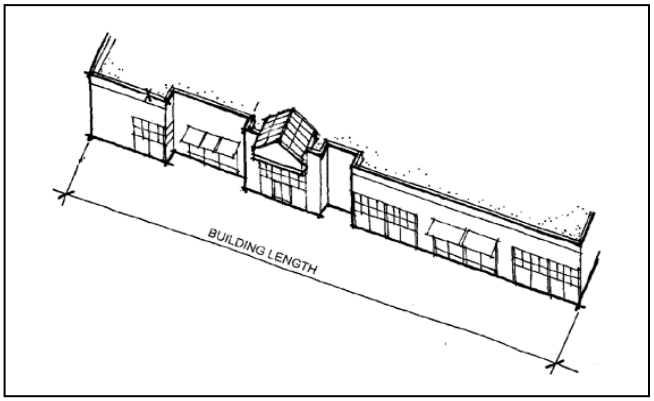


1. The height of a freestanding sign shall be measured as the vertical distance from the average finished grade of the ground below the sign excluding any filling, berming, mounding or excavating solely for the purposes of increasing the height of the sign, to the top edge of the highest portion of the sign including any architectural appurtenances.

2. 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.

7.9.11.4. Building frontage. For purposes of §7.9.9.1, 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.



7.9.12. Nonconforming Signs. A nonconforming sign shall not be structurally or physically changed in any way, although its content may be changed.

7.9.12.1. All nonconforming signs on a property must 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.

7.9.12.2. 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.

7.9.13. 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 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 sum of the gross horizontal floor areas 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. All parking required by this subsection shall be in addition to any parking already available on an adjoining road.

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

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		

Use classification	Specific use	Minimum # of spaces required
Industrial Sales and Service	Industrial sales and service not listed below	1 per 500 sq. ft.
	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 either not listed in Table 7-6, or are not reasonably similar to those listed in Table 7-6 shall be determined by applying guidelines of the Institute of Traffic Engineers (ITE) to the specific use contemplated.

7.10.6 Shared Parking. Applicants proposing shared parking shall comply with the requirements of § 7.10.5.

7.10.7 Space Identification. Parking spaces shall be permanently and clearly marked. Parking facilities shall be cleared 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.

7.10.8. 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. Parking areas shall be maintained in a dust-free, well-drained, serviceable condition at all times.

7.10.9. Dimensions. Parking spaces shall comply with Table 7-7.

Table 7-7: Parking Space Dimensions.

Use	Type of space	Dimensions
Residential	All	9’ x 19’
Nonresidential	Angle spaces	9’ x 19’
All	Parallel spaces	8’ x 24’

7.10.10. Vertical Clearance. Vertical clearance for parking spaces shall be a minimum of seven feet.

7.10.11. Internal Circulation System.

7.10.11.1. 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.

7.10.11.2. 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.

7.10.11.3. Parking areas shall be designed to provide for internal circulation in which no backing movement is needed except that required to leave a given space.

7.10.11.4. No backing onto public roads or rights-of-way shall be allowed.

7.10.12. Aisle Widths. Aisles within parking lots shall comply with the dimensional standards of Table 7-8.

Table 7-8: Required Aisle Widths

Angle of parking (degrees)	Aisle width	
	One-way	Two-way
0	13	22.5
30	13	24
45	14	24
60	19	24
75	22	24
90	24	24

7.10.13. Location. All parking spaces shall be located on the same lot as the principal use.

7.10.14. 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

7.10.14.1. Location. Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building or pedestrian entrance.

7.10.14.2. 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.

7.10.14.3. 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.

7.10.14.4. 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.

7.10.15. Vehicle Stacking Areas.

7.10.15.1. Minimum Number of Spaces. Where stacking spaces are required by Table 7-10, stacking spaces shall be provided in the amount provided.

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	

7.10.15.2. 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 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.

7.10.16. 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

7.10.17. Passenger Drop-Off Areas.

7.10.17.1. All public and private schools, general day care and large-family day care

uses, institutional uses, and recreational uses must provide an onsite area for drop-offs and pick-ups.

7.10.17.3. Drop-off and pick-up areas for public or private schools must 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.

7.10.17.4. Drop-off and pick-up area for a day care, institutional and recreational use must provide at least one drop-off/pick-up space and also must provide a maneuvering area to allow vehicles to drop-off and pick-up passengers and exit the site without backing.

7.10.17.5. Drop-off and pick-up areas may be adjacent to a primary driveway access or aisle, but must be located far enough off the road to prevent back-up onto the road.

7.10.17.6. 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;

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 include the design standards for rural and urban road types. Required road improvements depend upon: (a) the designation of the road as either rural or urban; and (b) the projected average daily traffic (ADT) for roads served by the proposed development as specified in Tables 7-12 and 7-13. The applicability of rural and urban road design standards is as follows:

7.11.2.1. Urban road standards shall apply to all roads within SDA-1 and SDA-2, and to all planned development and mixed-use zoning districts.

7.11.2.2. 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 trraffic	# of driving lanes	Lane width (ft)	Sidewalks	Bike lanes or Non-vehicular	Minimum ROW (ft)	Design Speeds (mph)	Max % Grade	Min. agg. base course	Min. bit. pavement	Max % Super-elev.
Arterial or highway	5000 +	6	12	Two 4’	Two 5 ft on-road	100	Level: 50+ Rolling: 50+ Mount.: 50+	5%	6"	6"	Refer to AASHTO
Minor arterial	2000 to 4999	2 - 4	12	Two 4’	Two 5 ft on-road	60 to 100	Level: 30-60 Rolling: 30-60 Mount.: 30-60	5%	6"	5"	Refer to AASHTO
Collector	601 to 1999	2	11	Two 4’	Two 5 ft on-road	45 to 72	Level: 30+ Rolling: 30+ Mount.: 30+	8%	6"	4"	5%
Sub-collector	301 to 600	2	11	Two 4’	Two 5 ft on-road	60	Level: 30+ Rolling: 30+ Mount.: 30+	8%	6”	4”	5%
Local	0 to 300	2	10	Two 4’	n/a	34 to 48	Level: 20-30 Rolling: 20-30 Mount.: 20-30	7%	6"	3"	5%
Alley	0 to 30	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%	n/a	n/a	n/a

Table 7-13: Rural Road Classification and Design Standards (SDA-3).

	Avg. daily trraffic	# of driving lanes	Lane width (ft)	Non- vehicular side paths	Bike lanes	Minimum ROW (ft)	Design Speeds (mph)	Max % Grade	Min. agg. base course	Min. bit. pavement	Max % Super-elev.
Major arterialor highway	5000 +	4	12	n/a	Two 5 ft on-road	150	Level: 70 Rolling: 70 Mount.: 50-60	5%	6"	6"	8%
Minor arterial	2000 to 4999	2 - 4	12	n/a	Two 5 ft on-road	70 to 100	Level: 60-75 Rolling: 50-60 Mount.: 40-50	5%	6"	5"	8%
Collector	100 to 1999	2	11	One 4 ft non-vehicular trail	n/a	60 to 80	Level: 40-60 Rolling: 20-50 Mount.: 20-40	8%	6"	4"	8%
Local	1-99	2	10	One 4 ft non-vehicular trail	n/a	56	Level: 30-50 Rolling: 20-40 Mount.: 20-30	9%	6"	4"	8%
Cul-de-Sac	0 to 30	2	10	n/a	n/a	20	Level: 30-50 Rolling: 20-40 Mount.: 20-30	9%	6"	n/a	n/a
Driveway	n/a	1	14	n/a	n/a	20	n/a	9%	4"	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 and to the Official Map.

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.

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; and

4. *Guidelines for Driveway Location & Design*, by the Institute of Transportation Engineers.

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.

7.11.5. Drainage; Curb and Gutter.

7.11.5.1. Culverts. Adequate provisions for drainage shall be installed at all waterway crossings. Culverts shall be sized to accommodate a one hundred (100) year storm, but in no event shall be smaller than eighteen (18) inches in diameter. Culverts shall also be of sufficient gauge or thickness 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 for the following roads:

1. Any road to be dedicated to the County; and

2. Where necessary for drainage control.

7.11.6. Intersections.

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. Off-set intersections of less than two hundred (200) feet 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 and shall provide for arc radius, as required for arterial roads.

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 radius adequate to ensure a 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 from 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.

7.11.6.8. Road jogs with centerline offsets of less than two hundred (200) feet shall be prohibited.

7.11.7. Cul-de-sacs (dead end roads).

7.11.7.1. Cul-de-sacs (dead end roads) shall not be longer than five hundred (500) feet and may 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 surface radius of at least forty-two (42) feet for roads under 250 feet long and of at least fifty (50) feet for roads 250 feet and longer. The Fire Marshal may approve a suitable alternative such as a hammerhead or turnaround, where in compliance with the International Fire Code.

7.11.7.3. All turn around areas shall be designed to protect existing vegetation and steep terrain. There shall be a minimum right-of-way diameter at the closed end of one hundred (110) feet.

7.11.8. Utilities. All utilities shall be located within the 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 ration may be allowed with detailed slope stabilization.

7.11.11. Signage and Striping.

7.11.11.1. All signs, striping, signals and other traffic safety devices shall be installed and maintained according to MUTCD standards.

7.11.11.2. Road name signs shall be installed at all intersections. Road name signs shall not be accepted for maintenance by the County until the road has been accepted for maintenance by the County.

7.11.12. Road Access.

7.11.12.1. Generally.

1. Legal access shall be provided to each lot.

2. Each lot must directly access a road constructed to meet the requirements of this section.

7.11.12.2. Access to Highways and Arterial Roads.

1. All developments shall be designed to have a minimum number of intersections with arterials or highways.

2. Where a development accesses a State highway, an access permit is required from NMDOT.

7.11.12.3. Access to Subdivisions.

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 31 lots or more shall provide access to the existing or proposed public roadway system via at a minimum of two access points and shall plan and provide easements for connectivity to future road networks.

3. Where it is in the public interest to establish an easement or access to property which adjoins a proposed subdivision, the right-of-way shall be extended to the boundary of the property which is the subject of a development application. The easement shall either be dedicated to the County or granted to a Home Owner's Association. Such easement shall be designated on the plat as a public access.

7.11.13. Driveways. Access to individual lots and parking areas shall be designed in accordance with the requirements of this subsection.

7.11.13.1. Standards for All Driveways.

1. A driveway may serve not more than two (2) lots.

2. Driveways shall not be located within one hundred fifty feet (150) of an intersection.

3. All driveways must conform to all minimum sight distances specified per AASHTO.

4. The entrance of a driveway to a road shall not impede the flow of stormwater

within the roadway. The installation of culverts may be required to ensure compliance with this section. All culverts shall be at least eighteen (18) inches diameter. In addition, stormwater protection measures including end sections and/or riprap may be required at driveways along steeper terrain.

7.11.13.2. Additional Standards for Residential Driveways.

1. Lots within residential subdivisions are limited to a single access point.

3. Driveway access to a lot shall be from a local or collector road, except where the only possible access is via an arterial or highway.

4. A 25 foot asphalt apron shall be required on driveways accessing a paved road.

7.11.13.3. 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 at intersection locations.

3. Driveway spacing is subject to the requirements of Table 7-14 which establishes the separation of curb cuts according to the posted speed of the access road.

Table 7-14: Curb Cut Separation 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. Driveway profiles, design elements, corner clearance, and performance standards for acceleration or deceleration lanes shall conform to the NMDOT's Regulations for Driveways, and Median Openings on Non-Access Controlled Highways;

5. Driveway design and placement must 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

6. A 50 foot asphalt apron shall be required on driveways accessing a paved road.

7.11.14. On-road Parking. On-road parking shall be a minimum of seven (7) feet in width. For local roads and sub-collectors, excluding rural roads, one parking lane may be included, in which case total required pavement width shall increase by an additional seven (7) feet.

7.11.15. Roads and Driveways in Steep Terrain.

7.11.15.1. Roads or driveways traverse natural slopes 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.

7.11.15.2. Hillside roads should reflect a rural rather than urban character. Road alignments located parallel to contours in valleys or on ridges minimize terrain disturbance. If steep terrain must be traversed to access the building site of a parcel or lot, i.e. where a road or driveway must be cut across contours, multi-lane road beds shall be designed using split directional lanes. This reduces the depth of a single cut or fill for a full width road bed to two half-deep cuts or fills for the two road lanes. The median between split directional lanes shall not exceed the slope of two feet (2') horizontal for each one foot (1') vertical. Natural vegetation shall be maintained wherever possible or all such medians shall be revegetated according to the standards of this Code.

7.11.15.3. Roads in steep terrain may intersect at a minimum angle of sixty (60) degrees, and horizontal and vertical curvature may be reduced provided standards for sight distance can be maintained and the Code Administrator approves the specific design.

7.11.15.4. Sharing of driveways is encouraged in order to minimize the number of hillside cuts and the number of drives exceeding eleven percent (11%) grade.

7.11.15.5. Narrower road widths may be approved under certain circumstances when:

1. The applicant proves that a narrower road will reduce grading impacts; and

2. The topography of the small number of lots served and the projected future traffic is such that narrower widths can be justified without compromising safety; and

3. The County Fire Marshal approves the plan for fire protection and public safety factors.

7.11.15.6. All roads and driveways shall be built to standard. No temporary roads or driveways shall be permitted.

7.11.16. Street Lights. See § 7.8.5 for requirements.

7.11.17. Sidewalks and Paths.

7.11.17.1. Sidewalks or walking paths are required where indicated in Tables 7-12 and 7-13. Surfacing of public sidewalks along roads shall be concrete or brick in SDA-1 and SDA-2 and may be concrete, brick or hot mix asphalt in SDA-3. Other hard surface materials may be used if evidence is shown that they are coordinated with streetscape and project design.

7.11.17.3. The minimum sidewalk width shall be four feet.

7.11.17.4. 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.

7.11.17.5. Sidewalks shall not be located on the roadway surface or in a storm drainage.

7.11.18. Bike Lanes. Bike lanes shall be required along all roadways as indicated in Tables 7-12 and 7-13, and as indicated on the Official Map. Bike lanes or paved shoulders shall be included as part of major roadways conforming to the geometric design criteria shown in Table 7-15.

Table 7-15: Bike Lane Design Criteria.

	Off-road bike paths	**On-road bike lanes**
Overhead clearance (min. feet)	7.5	7.5
Right-of-way width (min.)	10	within road right-of-way
Lane width (minimum, feet)	4	5
Lane width with on-road parking, combined bike lane and parking stall (minimum, feet)	n/a	14

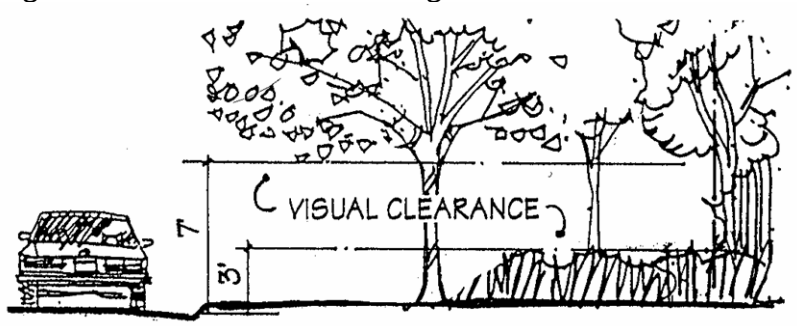
7.11.19. Multi-Use Paths. Multi-use paths shall align with and connect to the Official Map. Multi-Use Paths shall be paved with a minimum 2-inch thick asphaltic concrete top course placed on a 6-inch thick select granular sub-base with weed barrier. The right-of-way outside of the paved lane shall be graded to provide clearance from trees, poles, walls, fences, guardrails, or other lateral obstructions.

7.11.20. Planting Strips and Tree Planting Areas. Proposed planting strips and tree planting areas between the curb and sidewalk shall be a minimum of four (4) feet wide.

7.11.21. Corner Setbacks and Intersection Visibility (Safe Sight Triangle). The following standards shall apply at any corner of intersecting roads or driveways:

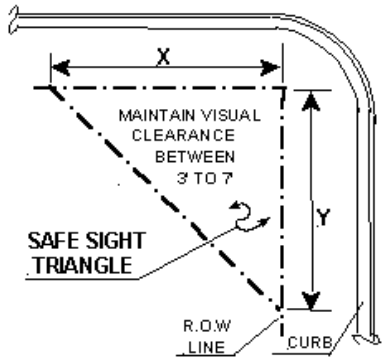
7.11.21.1. No structure or planting (at mature growth) that exceeds three feet in height shall be permitted within a corner setback. Exceptions are permitted for utility poles, road lighting, and county or state traffic signs which allow a clear line of sight between three and seven feet above the road grade. See Figure 7.4.

Figure 7.4: Structures and Plantings within Corner Setback.



7.11.21.2. Corner setbacks for sight distance extend within 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.

Figure 7.5: Safe Sight Triangle.



7.11.21.3. Table 7-16 establishes the minimum required corner setbacks, measured in accordance with 7.11.28.2.

Table 7-16: 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

7.11.22. Maintenance and Dedication of Subdivision Roads.

7.11.22.1. 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.

7.11.22.2. The County will not accept a road for maintenance via dedication unless the requirements of § 7.23 are met.

7.11.23. Roundabouts.

7.11.23.1. Where Allowed. Reserved.

7.11.23.2. Roundabout Design Requirements. Reserved.

7.12. UTILITIES.

7.12.1. Purpose. To minimize the visual scars created by trenching or the visual intrusion to the skyline by overhead installation of utilities across undeveloped terrain.

7.12.2. General Standards. 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:

7.12.2.1. 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.

7.12.2.2. 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 currently served by an above-ground electric utility line.

7.12.2.3. 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.

7.12.2.4. All utility installations must meet the design standards for grading and removal of vegetation and re-vegetation in § 7.6.

7.12.2.5. All utilities within a new subdivision shall be placed underground within designated utility easements or corridors.

7.12.2.6. Shared or joint utility trenching and installation shall be required to the extent practicable.

7.12.2.7. Areas for the location of multiple utilities within road right-of-ways or easements shall be reserved.

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 adopted Sustainable Development Area (SDA) in which the development is located (described in Chapter 8: Zoning), and the proximity of the development to the County's water utility.

7.13.1.1. General Requirements. The standards of this subsection apply to all developments requiring development approval pursuant to the SLDC.

1. Regardless of whether the County's water supply system is utilized, all

development shall include internal water supply systems built to standards established by the County water utility so that they may be connected to the County utility when available.

2. All properties on water supply systems other than the County utility (including but not limited to community water systems, shared well systems and individual domestic wells) that are required to connect to the County water utility by this section need not do so until the County has provided notice that it is ready, willing and able to connect.

3. Regardless of the source of water supply for a property, for planning purposes the minimum required water supply shall be 0.25 acre feet per dwelling unit notwithstanding that the owner or developer claims that less water is to be used.

7.13.1.2. Source of Water. When connection to the County Utility or a community water system is required as specified in Table 7-17, the source of water will be the County Utility or the community water system. When connection to the County Utility or a community water system is not required pursuant to Table 7-17, then the water source utilized must be adequate to supply the proposed development for at least 99 years, as demonstrated in the Water Service Availability Report, 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.

7.13.1.3. Required Connection to County Utility or Community Water System. Table 7-17 provides the requirements for connection to the County water utility or, in some cases, a nearby community water system. All development within SDA-1 is either required to connect to the County Utility in all cases or to connect if within a specified distance. In SDA-2, development is required to connect to the County utility if within the County utility's service area or if the development is within the specified distance from the County utility. In SDA-3, higher impact development is required to connect to the County utility regardless of distance, but other specified development must connect to either the County utility or a community water system if within the specified distance. In all cases, it shall be the responsibility of the applicant to provide water supply infrastructure to the point of connection. If any part of a proposed development is within the distance where connection to the County utility is required, then the entire development must make the connection to the County utility when the County utility becomes ready, willing and able to supply the development, even if development is phased.

Table 7-17: When Connection Required to County Utility Water/Sewer.[1]

		Property Location		
		SDA-1	**SDA-2**	**SDA-3**
Development Type	Residential (1-4 units)	if within 330 feet	if within 1,320 feet	if within 2,640 feet*
	Multi-family (5+ units)	required	if within service area	required
	Minor Subdivision	required	if within service area	if within 2,640 feet*
	Major Subdivision	required	if within service area	required
	Non-residential (under 10k sf)	if within 660 feet	if within 2,640 feet	if within 1 mile*
	Non-residential (over 10k sf)	required	if within service area	required

*of the County utility or a community water system

7.13.1.4. Alternative Water Supply. Where a development is not required by application of Table 7-17 to be supplied from the County utility (or a community water system), the following requirements shall apply:

1. Major Subdivisions. Major subdivisions may receive water from a surface or groundwater source, but the source must be adequate to supply the development for at least 99 years, as demonstrated in the Water Service Availability Report required by Chapter 6: Studies, Reports and Assessments. The development must be fully equipped to receive water from the County utility when service becomes available, and any approval conditioned upon connection to the County utility, when available.

2. Community Water Systems. A development that is not required to connect to the County utility shall be required to connect to a community water system if specified on Table 7-18.

Table 7-18: Community Water System Requirement for Developments 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

[1] For purposes of this section, all distances shall be measured from the property line and not from any structure located on the property.

3. Individual Well or Shared Well System. A development that is not required to connect to the County utility pursuant to Table 7-17 or to a community water system pursuant to Table 7-18, may provide water for a development from any reasonable source, including surface water or groundwater from a shared well system or individual well system.

7.13.1.5. Standards for Community Water Systems.

1. A community water system shall provide all water needed for domestic use and fire protection.

2. A community water system shall meet or exceed all applicable design standards of the New Mexico Environment Department, the Construction Industries Division and the Office of the State Engineer.

3. A community water system shall be capable of providing the requirements of the development for no less than 99 years. Water wells supplying a community water system shall be capable, individually and collectively, of providing the water needs of the development for at least 99 years.

4. A community water system shall provide adequate water for fire protection as specified in the New Mexico Fire Code.

5. A community water system shall own valid water rights and possess a permit issued by the Office of the State Engineer; the water rights must have an appropriate place and purpose of use, and the quantity permitted and any conditions imposed on the permit must be sufficient to meet the maximum annual water requirements of the proposed development. An application failing to provide such proof shall not be deemed complete.

6. All distribution mains within a community water system shall be a minimum of eight (8) inches in diameter.

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 a property supplied by a community water system.

8. All applicable requirements of the Public Utility Act, Articles 1 through 6 and 8 through 13 of Chapter 62, NMSA 1978, shall be met.

9. A new community water system proposed for new development 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.

10. A new or expanded 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.

11. Easements, including construction easements, shall be provided for a community water system.

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. 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. Any development proposed to use a community water system whose source of water is, in whole or in part, groundwater, shall perform a geo-hydrologic report to establish the ability of the community water system to meet the obligations of this subsection.

15. As an alternative to the previous paragraph, a reconnaissance report may be substituted for a geo-hydrologic report when: (i) the water needs of the development are not reasonably anticipated to exceed three (3) acre feet per annum; (ii) the proposed development does not exceed four (4) residential structures buildings or commercial development of 10,000 square feet; (iii) the parcel or parcels do not exceed the maximum density specified in the applicable zoning district; and (iv) no more than one (1) well will be utilized.

16. In cases where the community water system is a municipal of other public water supply that is a forty year planning entity pursuant to NMSA 1978, 72-1-9, the requirements of this subsection shall not be required, but the municipal or other public water supply shall provide a letter of intent that it is ready, willing and able to provide the maximum annual water requirements of the development. If the municipal or other public water supply requires that new development provide water rights as a condition of providing service, water rights shall be conditionally transferred to the utility prior to application pursuant to the SLDC.

17. In cases where the community water system is a municipal or other public water supply that is *not* a forty-year planning entity pursuant to NMSA 1978, Section 72-1-9, all the requirements of this subsection shall apply.

18. In cases where the community water system is a private utility regulated by the Public Regulation Commission pursuant to the Public Utility Act, all the requirements of this subsection shall apply. In addition, the private utility shall provide a letter of intent that it is ready, willing and able to provide the maximum annual water requirements of the development. If the utility requires that the development provide water rights as a condition of providing service, water rights shall be conditionally transferred to the utility prior to the application being certified as complete.

19. A community water system within a Traditional Community District shall minimize the use of local water resources.

7.13.1.6. Standards for Shared Wells Systems and Individual Wells. Shared well systems or individual wells may be used where permitted. A shared well system or individual well shall be provided under the standards provided in this subsection.

1. A shared well system or an individual well shall provide all water needed for domestic use and fire protection.

2. A shared well system or an individual well shall meet or exceed all applicable design standards of the New Mexico Environment Department, the Construction Industries Division and the Office of the State Engineer.

3. A shared well system or an individual well shall be capable of providing the requirements of the proposed development for no less than 99 years.

4. A shared well system or an individual well, together with its associated equipment and infrastructure, shall provide adequate water for fire protection as specified in the New Mexico Fire Code.

5. A shared well system or an individual well shall possess a valid license issued by the Office of the State Engineer with sufficient licensed capacity to meet the maximum annual water requirements of the proposed development.

6. 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.

7. Easements, including construction easements, shall be provided for a community water system.

8. Financial security shall be deposited to secure the construction of a shared well system.

9. 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 individual and/or shared domestic wells is strictly prohibited.

7.13.1.7. Water Quality.

1. All water systems provided in connection with a development shall provide water of an acceptable quality for human consumption, as specified in this subsection.

2. Any "public water system" as defined in regulations of the New Mexico Environmental Improvement Board, NMAC 20.7.10.1, shall meet or exceed the requirements and standards of NMSA 20.7.10.1 *et seq.*, and the Environment Improvement Act, NMSA 1978, Section 74-1-1 *et seq.*

3. Any "public water system" as defined in regulations of the New Mexico Environmental Improvement Board, NMAC 20.7.10.1, shall, as applicable, obtain written permission to commence or continue operations from the New Mexico Environment Department.

7.13.2. Wastewater Systems. As is the case with water supply and distribution systems, the 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.

7.13.2.1. General Requirements.

1. 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 so that they may be connected to the County utility when available.

2. All properties on private wastewater systems, including on-site septic systems, that are required to connect to the County utility pursuant to Table 7-17 need not do so until the County has provided notice that it is ready, willing and able to connect.

3. For purposes of this section, all distances shall be measured from the property boundary and not from any structure on the property. If any part of a development is within a distance where connection to the County utility is required, then entire development must make the connection to the County utility when the County utility becomes ready, willing and able to provide wastewater services to the development, even if development is phased. If any part of a development is within distance requirement, then entire development must connect, even if phased.

4. Where applicable, a community wastewater system shall meet all applicable requirements of the Public Utility Act, Chapter 62, NMSA 1978.

7.13.2.2. Required Connection to County Utility. Table 7-17 provides the requirements for connection to the County wastewater utility. Development within SDA-1 is either required to connect in all cases or if within a certain distance of the utility. In SDA-2, development is required to connect if within the County utility's service area or within a certain distance from the County utility. In SDA-3, all higher impact development is required to connect to the County utility regardless of distance, and other development must connect if within a certain distance. In all cases, it is the responsibility of the owner/developer/applicant to provide wastewater infrastructure to the point of connection with the County utility.

7.13.2.3. Where Alternative Wastewater System Allowed.

1. Any wastewater system provided pursuant to this Section must 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 pursuant to Table 7-17, the development shall provide a separate tertiary sewer treatment facility with full grey water capture, treatment and reuse, and shall provide for the laying of capped lateral sewer lines so that connection to the County wastewater system or private sewer utility or sewer company provider can be made when the service area of the County public sewer system or private sewer system or private sewer utility encompasses the proposed development, and appropriate covenants shall be provided to mandate retirement of the tertiary system or transfer of the ownership of the system to the County, at its option, and require transfer of ownership of the entire collection system and mandate hookup of the private system to the County public sewer system or private sewer system or private sewer utility.

3. Where a development located within SDA-3 is not required to connect to the County's wastewater system pursuant to Table 7-17, and four (4) or more lots are being created, a separate tertiary sewer treatment facility shall be provided with full grey water capture, treatment and reuse.

4. Where a development located within SDA-3 is not required to connect to the County's wastewater system pursuant to Table 7-17, and three (3) or fewer lots are being created, an on-site septic sewer system may be provided so long as the appropriate liquid waste permit is obtained from the New Mexico Environment Department.

5. Any liquid waste 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.

7.13.3. Water Conservation.

7.13.3.1. Outdoor Conservation.

1. Outdoor watering or irrigation is prohibited between 11 am and 7 pm from May through September of each year, except for the following:

a. Irrigation of plants being irrigated for retail or wholesale sale;

b. Manual watering;

c. Irrigation using water derived from rainwater catchment systems or a grey water re-use system; and

d. Irrigation using water derived from an acequia or other agricultural irrigation system.

2. Vehicle washing is only allowed with the use of a shut-off hose nozzle.

3. An outdoor irrigation system may not be operated while a leak from it exists.

4. Planting sod or grass seed that contains Kentucky bluegrass is not permitted.

5. Water system leaks shall be repaired promptly and in no event more than fifteen (15) days from the beginning of the leak. Proof of repair shall be provided to the County upon completion of the repair when such notification is requested.

7.13.3.2. Indoor Conservation.

1. All new construction and all remodeling that involves replacement of plumbing fixtures shall comply with the requirements of this section.

2. All property that is zoned as commercial or industrial shall retrofit plumbing fixtures to comply with the requirements of this section.

3. Water closets, either flush tank, flushometer tank or flushometer valve operated shall have an average consumption of not more than 1.6 gallons (6.1 liters) per flush. Water closets that use a "quick closing" flapper to limit the flush to 1.6 gallons shall not be used to satisfy this requirement.

4. Urinals shall have an average water consumption of not more than 1.0 gallon of water per flush, with the exception that, if approved by Santa Fe County,

blowout urinals may be installed for public use in stadiums, race courses, fairgrounds and other structures used for outdoor assembly and similar uses.

5. Lavatory and kitchen faucets shall be equipped with aerators and shall be designed and manufactured so that they will not exceed a water flow rate of 2.5 gallons (9.5 liters) per minute.

6. Self-closing, metering or self-closing faucets shall be installed on lavatories intended to serve the transient public, such as those in, but not limited to, service stations, train stations, airports, restaurants and convention halls. These faucets shall deliver no more than .25 gallons of water (1.0 liters) of water per use.

7. Shower heads shall be designed and manufactured so that they will not exceed a water supply flow rate of 2.5 gallons (9.5 liters) per minute. Emergency safety showers are exempted from this provision.

8. Water-conserving fixtures shall be installed in strict accordance with the manufacturer's instructions to maintain their rated performance.

9. For all new and remodeling construction, all of the requirements regarding water conserving devices shall be certified by a certificate of compliance by a licensed mechanical contractor or plumbing permittee before or at the time of the final plumbing inspection.

10. All outdoor timed irrigation systems must be equipped with a rain sensor so that the irrigation system does not operate when it is raining or has recently rained.

11. Exceptions to the above requirements may be permitted when necessary to maintain adequate health and safety standards.

12. All new construction that includes a hot water tap must be designed so that hot water is delivered to any hot water tap in the structure within five seconds of the tap being turned on. This requirement can be achieved through the use, either alone or in combination, of the following devices or designs:

a. a hot water re-circulation system with time and temperature controls;

b. on-demand circulation systems;

c. centrally located water heaters;

d. point-of-use water heaters;

e. short hot-water line run distances;

f. smaller diameter piping;

g. "instant hot" fixtures;

h. super-insulation methods; or

i. other device or design approved by the Administrator.

13. All private and public eating establishments 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: on the menu; by use of a "table tent" or single signage on the table; or posting in a location clearly visible to all customers. All catering and banquet operations shall comply with the provisions of this subsection.

14. Lodging facilities shall not provide daily linen and towel changing for guests staying multiple nights unless the guest specifically requests each day that linens and towels be changed.

7.13.3.3. 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 not 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.

6. County departments shall provide indoor and outdoor conservation literature to all persons applying for a development permit and persons initiating water service.

7.13.3.4. Domestic Well Use Metering Program.

1. The domestic well metering program applies to persons living or operating businesses on property where metering is established as a condition of plat approval.

2. Each property owner to which this subsection applies shall provide the name and address of the property owner at the time a development permit is issued. Any person acquiring property to which this subsection applies shall provide updated information.

3. The final inspection field report shall require that the water meter be installed in order for final inspection approval.

4. Each property to which this subsection applies shall to test the meter for accuracy no fewer than every ten (10) years and replace if necessary.

5. Each property to which this subsection allies will receive a post card from the County that shall be completed and returned.

6. Failure to submit a meter reading when required or failure to return the post card referred to in the previous paragraph that constitute a violation of this Ordinance.

7. Any person using water in an amount in excess of that specified on a plat shall be guilty of a violation of this ordinance and shall be punished as set forth herein.

7.13.3.5. Waste.

1. No person shall cause or permit to occur any waste of water.

2. Waste is using water for a use that is not beneficial. Waste includes, but is not limited to, leaks from indoor and outdoor plumbing systems in excess of 0.25 gallons per minute. Waste does not include:

a. use of water for fire-fighting, including routine inspection of fire hydrants or other training activities;

b. use of water to abate spills of flammable or otherwise hazardous materials;

c. use of water to prevent health, safety or accident hazards when alternate methods are not available;

d. use of water resulting from vandalism, wind, emergencies or acts of God;

e. use of water for routine inspection or maintenance of a water utility system;

f. use of water for installation, maintenance, repair or replacement of public facilities and structures such as traffic control devices, storm and sanitary sewer structures and road improvements;

g. use of water for construction activities including saw cutting and pavement compaction;

h. use of water resulting from well drilling or development or a pumping test;

7.13.3.6. Fugitive Water.

2. Fugitive water is prohibited.

3. 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 feet square in size or cause flow along or off of the hard surface or onto adjacent property or the public 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.

3. Fugitive water shall not include:

a. incidental run-off caused by vehicle washing provided that a shut-off nozzle is in use;

b. periodic draining of swimming pools and spas;

c. storm run-off, including snowmelt run-off;

d. flowing resulting from temporary water system failures or malfunctions;

e. 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;

f. flow resulting from vandalism, high winds, emergencies and acts of God, or

g. 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.

7.13.3.7. Water Harvesting.

1. Rainwater Catchment Systems. Rainwater catchment systems are required for new construction and additions whose roof surface is 2,500 square feet or greater.

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.

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

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.

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 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,

7.14.1.6. Keep monthly energy expenditures manageable over the useful life of the structure.

7.14.2. Residential Structures.

7.14.2.1. All new residential structures 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 residential structure shall achieve a HERS rating of 70 or less or be demonstrated to achieve equivalent energy performance.

7.14.2.3 The HERS 70 standard or equivalent shall be certified by a qualified, independent third-party accredited HERS rater.

7.14.2.4. 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.

7.14.2.5. 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."

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 County Manager shall determine which updated version of the checklist, or equivalent, shall be applicable at any given time.

7.14.2.6. To demonstrate compliance with these requirements, a preliminary certification of energy performance, signed and/or stamped by the independent third party verifier shall be documented on a form provided 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.

7.14.2.7. Larger multifamily residential structures that are not included under RESNET's HERS index rating system, shall comply with the energy efficiency requirements for commercial structures in subsection B.

7.14.3. Commercial Structures.

7.14.3.1. All new commercial buildings, including governmental and institutional 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 for development review.

7.14.3.2. Commercial builders are strongly encouraged, 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.

7.15. OPEN SPACE.

7.15.1. Purpose. Open space adds to the visual character and uniqueness of each development and allows for recreational and aesthetic enjoyment by the residents. Designated open spaces add land value to a development. In rural areas, open space is intended to serve as preserved land for passive enjoyment, including especially, preserved open vistas. Contiguous designated open space can provide protection for the movement of wildlife within wildlife corridors. In more

suburban areas and within developed projects, improved open space provides centrally located natural areas, community gathering spots, and recreational/play spaces that are integral to the livability of the neighborhoods.

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 wildlife Corridor or trail corridor as identified on the Official Map.

7.15.3. Standards.

7.15.3.1. Neighborhood Parks.

1. A neighborhood park shall be provided at one acre for every 200 residents provided that no park shall contain less than one (1) acre per subdivision.

2. Neighborhood parks are defined as playgrounds, community gardens, or plazas.

3. The park shall be dedicated as a neighborhood park within the subdivision.

7.15.3.2. Open Space. Reserved.

7.15.3.2. Trails. Reserved.

7.15.3.4. Dedication, Ownership and Management of Open Space and Parks.

1. Open space and neighborhood parks shall be established on the Final Plat with provisions for permanent maintenance through dedication to a legally established homeowners' association.

2. Open space property and neighborhood parks 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 and Intent. The standards of this section are intended to preserve and enhance the unique heritage of the County of Santa Fe. Standards are established for the preservation of 'cultural property' as defined by state statute (§18-6-3 NMSA 1978 – a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance), including those cultural properties previously identified as being worthy of preservation via placement on the State's official register of cultural properties, and those cultural properties not yet known or identified as being worthy of preservation, the desecration or destruction of which would result in an irreplaceable loss to the public. Preservation of cultural property is achieved by establishing a procedure for discovering, evaluating, reporting and treating such resources at the planning stage of development proposals.

7.16.2. Designation of Registered Cultural Properties. The State of New Mexico, Historic Preservation Division, maintains a list of those cultural properties within the County that have

been deemed worthy of preservation. The list includes properties listed on the National Register of Historic Places maintained by the National Park Service. Any property included on the State's list is referred to as a Registered Cultural Property.

7.16.3. Applicability. The provisions of this section apply to: (a) developments involving a Registered Cultural Property; (b) all non-residential and multi-family development; and (c) any division or subdivision of land that creates three (3) or more lots.

7.16.4. Development Affecting a Registered Cultural Property – Required Report. A report and drawings describing all proposed changes to structures or development affecting a Registered Cultural Property shall be prepared by a professional qualified under §7.16.7 to evaluate, design and report on such changes. The report shall include a treatment plan which provides methods by which the property will be protected, preserved or salvaged. The treatment plan shall be reviewed by the New Mexico State Historic Preservation Office, which shall decide on further course of action regarding treatment. Unless a report is specifically required by the Administrator, individual permits for construction of single dwelling units, accessory structures, agricultural facilities, roads, utility installations and family transfers which do not alter a Registered Cultural Property and lands which have been previously surveyed by a professional archaeologist and accepted by the Code Administrator are exempt from these reporting requirements.

7.16.5. All Other Applicable Development.

7.16.5.1. A reconnaissance survey and report shall be prepared by a professional qualified under §7.16.7 and submitted to the Administrator that at a minimum:

1. describes the proposed development, including the buildable area and any other area that is proposed to be disturbed;

2. identifies whether the property proposed for development is located near any archaeological sites or has been placed on the Cultural Property Register;

3. identifies whether cultural remains have been found, and

4. if cultural remains have been found, includes a proposed treatment and mitigation plan in accordance with §7.20.8.

7.16.5.2. The survey and report must study the buildable area of the proposed development. No development may be proposed outside the area studied by the survey and report. If subsequent development is anticipated, the survey and report must study the entire area anticipated for development.

7.16.5.3. The reconnaissance survey and report shall include research and analysis of the Archeological Records Management Section (ARMS) site files, the State Register of Cultural Properties, Bureau of Land Management records, and a visual examination for evidence of archaeological and cultural features, artifacts or culturally altered landscape at least fifty (50) years old.

7.16.5.4. Linear transects shall be used. A sample of surface artifacts shall be analyzed during the field survey.

7.16.5.5. In consultation with the State Historic Preservation Office, the Administrator may determine that a reconnaissance survey and report is not required for areas with pre-existing extensive surface disturbance.

7.16.6. Tribal Notification. All reports and treatment plans submitted for property located near Tribal Lands or that contain sites that are significant or sensitive to Native Americans shall be sent to the appropriate Tribal Governments for review and comments.

7.16.7. Professional Qualifications. Each reconnaissance survey and report, and any treatment plan, shall be prepared by a professional archaeologist, anthropologist or historian who is qualified by the State Historic Preservation Office.

7.16.8. If Cultural Remains Found. Where cultural remains are found, the reconnaissance survey and report must so identify and provide a treatment and mitigation plan and recommendations. Two copies of the report shall be submitted to the Administrator containing, at a minimum, the following:

7.16.8.1. the name of the person who prepared the report and survey and the name of the property owner;

7.16.8.2. a description of the project site and proposed land altering development;

7.16.8.3. a vicinity map at a scale of at least one inch equals 2,000 feet (USGS 7.5 Quad);

7.16.8.4. a brief description and justification of the research design, methods and techniques used;

7.16.8.5. quantitative and qualitative summaries of cultural remains tested and analyzed during the field investigations including a description and the significance of the remains. If the remains are significant the requirements of §7.16.10 shall also apply;

7.16.8.6. a brief description of human occupation and land use, as evidenced through documentary and archaeological research; additional research of archival sources, land titles and historic maps, is required when historic period cultural remains are found;

7.16.8.7. a complete listing of sources, including individuals with personal knowledge of a site, records and literature, which were consulted during the reconnaissance;

7.16.8.8. documentation of the project site including a site map at a minimum scale of one inch equals 400 feet showing the location of field work; visible cultural sites or structures; photographs of sites or structures completed; State of New Mexico site inventory and activity forms which can be obtained from the New Mexico Historic Preservation Division; and an overview of previous work and findings in the vicinity;

7.16.8.9. an assessment of the impact of the proposed development on the cultural remains of the site; and

7.16.8.10. one of the following recommendations to the Administrator:

1. the proposed development will not affect a significant site or the integrity of the district and no further treatment is required;

2. the proposed development will adversely impact a significant site or structure or the integrity of the district, but the effects can be mitigated by a non-disturbance easement, through avoidance of the site by project redesign, or through a specified treatment plan as outlined in §7.16.10; or

3. the proposed development will adversely impact a significant site or structure or the integrity of the district, and the affected structures or sites are of such size or significance that an adequate treatment is not feasible. Therefore, a protective nondisturbance easement, avoidance of the site by project redesign, or other protective measure approved by the Board is required.

7.16.9. If Cultural Remains Not Found. If cultural remains are not found, two copies of a report shall be submitted to the Administrator containing the following:

7.16.9.1. the name of the person who prepared the report and survey and the name of the property owner;

7.16.9.2. a description of the project site and proposed land altering development;

7.16.9.3. a vicinity map at a scale of at least one inch equals 2,000 feet (USGS 7.5 Quad);

7.16.9.4. a brief description and justification of field methods and research techniques used; and

7.16.9.5. a brief summary of the findings of the ARMS, State Register and BLM historic plat reviews.

7.16.10. Treatment and Mitigation Plan for Significant Remains.

7.16.10.1. If the reconnaissance survey and report disclose significant remains, a cultural treatment and mitigation plan must be prepared and submitted along with the survey and report. Further archival research shall be conducted concerning human occupation and the land use of the site. A final report of the results of treatment is required and shall be submitted to the Administrator and forwarded to the State Historic Preservation Office for review and comment. A non-disturbance easement may be required and treatment of a site shall not be permitted.

7.16.10.2. Treatments other than excavation to mitigate adverse impacts of a project on a site may be permitted.

7.16.10.3. The cost of implementing the treatment plan and associated report shall not exceed two percent (2%) of the value of the proposed development. Where the cost of the treatment plan is proposed to exceed this cost, the County shall require a non-disturbance easement.

7.16.11. Excavation Required.

7.16.11.1. If, in the opinion of the author of the reconnaissance survey and report, or in the opinion of the State Historic Preservation Officer, there is reason to believe that subsurface cultural remains may exist, an excavation shall be undertaken.

7.16.11.2. A plan of excavation shall be prepared by the Applicant, and shall be included with the Reconnaissance Survey and Report. The actual excavation plan shall be reviewed by the Administrator and the State Historic Preservation Office (SHPO). All excavation shall be undertaken under the general supervision of the SHPO.

7.16.11.3. Excavation not be required beyond the expenditure limit pursuant to §7.16.10.3.

7.16.11.4. Excavations shall proceed to a depth where no archaeological features or artifacts are encountered. Excavations shall be directed at recovering information, artifacts and other archaeological remains physically at risk from the proposed development and to leave information, artifacts and archaeological remains physically protected from the proposed development.

7.16.11.5. If the excavation does not exhaust retrievable information from a significant site, or if excavation is not desired by the Applicant, a non-disturbance easement shall be prepared and recorded to protect the site.

7.16.11.6. If excavations are required, then an excavation report that details the results of the excavation and contains proposals for treatment and mitigation, as necessary, shall be submitted to the Administrator and forwarded to the SHPO for review and comment.

7.16.11.7. Where proposed development will adversely impact a significant site, structure of a site, or the integrity of a site, and the affected structures or sites are of such size or significance that adequate treatment is not feasible, a protective non-disturbance easement and avoidance of the site by project redesign must be accomplished.

7.16.12. Unexpected Discoveries; Human Remains.

7.16.12.1. Unexpected Discoveries. A report of any unexpected discoveries of cultural remains during construction activities shall be made to the Administrator. Construction activities within the area of the discovery that in any way endangers the cultural remains shall cease. The Applicant shall be responsible for having a qualified archaeologist, anthropologist or historian visit the site within forty-eight (48) hours, excluding weekends or holidays, and determine the significance and the data potential of the site. If the site is determined to be significant or to have data potential, then the qualified professional will determine a buffer area in which construction activities shall temporarily cease; and the Applicant shall present a treatment and mitigation plan to the Administrator for approval. The treatment and mitigation plan shall meet the procedural requirements of §___. Alternatively, a non-disturbance easement may be platted to protect the site.

7.16.12.2. Human Remains. Any person who discovers a human burial in any unmarked burial ground shall cease any activity that may disturb that burial or object or artifact associated with that burial and shall notify the local law enforcement agency having jurisdiction in the area pursuant to § 18-6-11.2 NMSA 1978. The local law enforcement agency shall notify the state medical investigator and the state historic preservation officer, pursuant to § 18-6-11.2. Any person that excavates, removes, disturbs, or destroys any human burial buried, entombed or sepulchered in any unmarked burial ground may be guilty of a fourth degree felony pursuant to § 18-6-11.2 NMSA 1978.

7.16.13. Non-Disturbance Easement. A non-disturbance easement shall be placed over any site which is not treated. No construction or alteration may occur within a non-disturbance easement without prior approval of the Administrator.

7.16.14. Public Use. If the owner of an archaeological, historic, or cultural site or landmark intends to make the premises open to the public or charge user fees to the public for visiting the site, the owner shall be subject to the applicable provisions of the SLDC.

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, including overland sheet flow and protection of 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 designating a "Buildable Area" and "no-build area(s)" on each lot, tract or parcel;

7.17.1.7. Appropriately locate roads, driveways and utilities so as to minimize unsightly cut and fill areas, and scarring.

7.17.2. Applicability. All new development shall comply with the standards of this section.

7.17.3. Buildable Area. Development shall occur only within a designated and approved buildable area. The 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, which shall not be less than 2000 square feet.

7.17.4. No Build Areas. No build areas shall be identified on any new plat and on any site development plan. No build areas include:

7.17.4.1. Rock outcropping, wetlands, arroyos and natural drainage ways;

7.17.4.2. Setback areas as required in the underlying zoning district, from ridge tops and ridges, natural streams and drainageways;

7.17.4.3. Ridge tops that do not contain at least 2000 square feet of buildable area; and

7.17.4.4. Areas with natural slopes of 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

2. Any area of periodic flooding shall be identified as a no build area and shall be designated as a drainage way;

3. Any ponding areas used in drainage control facilities shall be revegetated;

7.17.5.2. Single Family Residential. Single family residential uses meeting the following criteria shall install a retention/detention pond(s) or check dams with a minimum volume of six hundred (600) cubic feet:

1. the proposed development sites are located outside of a regulated one hundred (100) year floodplain and on slopes less than ten percent (10%); and

2. 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 (6000) square feet and total impermeable surfaces (roofs, paved areas, patios, etc.) do not exceed twenty-five hundred (2500) square feet.

7.17.5.3. All Other Development. All other 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. 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;

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;

4. Storm drainage facilities shall have the sufficient carrying capacity to accept peak discharge runoff from the development;

5. 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 "Q".

6. All floodways shall be designated as drainage easements or drainage rights-of-way. 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 with a notation indicating the approximate areal extent or area of inundation of the one hundred (100) year floodplain or tributaries thereof.

7. A twenty-five foot (25') minimum set back from the natural edge of streams,

waterways, drainage ways or arroyos that have a capacity to convey a "Q" of one hundred cubic feet per second (100 cfs) or more, generated by a design storm (100 year recurrence, 24 hour duration) is required.

7.17.6 Grading and Clearing.

7.17.6.1. A development permit shall be obtained for grading, clearing, grubbing and blasting.

7.17.6.2. Mass grading of a site is prohibited.

7.17.6.3. Grading and clearing of existing native vegetation shall be limited to approved Buildable Areas and road or driveways

7.17.6.4. Topsoil from graded areas shall be stockpiled for use in revegetation.

7.17.6.5. 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.

7.17.6.6. No grading is permitted within one foot of a property line, except for roads driveways and utilities.

7.17.6.7. Temporary fencing shall be installed to protect natural vegetation.

7.17.7. Restoration of Disturbed Areas.

7.17.7.1. Disturbed areas shall be permanently revegetated.

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.

7.17.7.4. No on-site borrow is permitted except as part of necessary cuts.

7.17.8. Cuts and Fills.

7.17.8.1. 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.

7.17.8.2. Cut and fill slopes combined shall not exceed 20 feet.

7.17.8.3. Retaining walls shall not exceed ten feet in height

7.17.8.4. All cut and fill slopes shall not be less than three (3) feet from property lines.

7.17.9 Steep Slopes, Ridge tops, Ridgelines and Shoulders.

7.17.9.1 Applicability. This subsection applies to construction of any structure on a

slope in excess of fifteen percent (15%) or on a ridge, ridge top, ridgeline or shoulder.

7.17.9.2 Standards.

1. No structure may be constructed on a ridge top unless there is no other buildable area on the property.

2. Only single story structures are allowed on ridges, ridge tops and shoulders.

3. All buildable areas on a ridge top or ridgeline shall be set back 50 feet from the shoulder.

4. No structure may be constructed on a natural slope of thirty percent (30%) or greater.

5. Utilities may be located on a natural slope in excess of thirty percent (30%) so long as the utilities disturb no more than three separate areas not exceeding 1,000 square feet each.

6. Drainage structures and slope retention structures may be located on a natural slope in excess of thirty percent (30%).

7. No structure may be constructed on a slope where evidence exists of instability, rock falls, landslides, or other natural or man-made hazards.

8. 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.

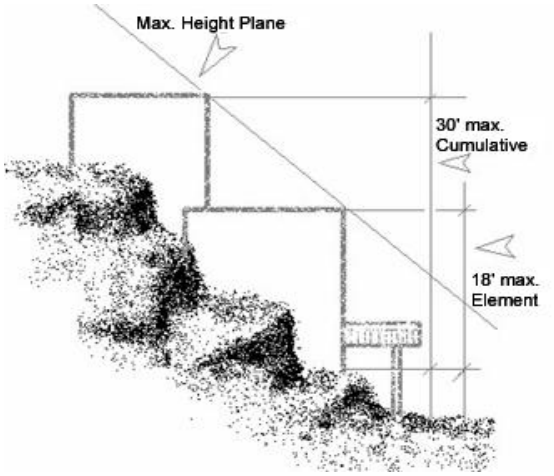
9. Not more than 1,000 square feet is disturbed per arroyo crossing, and slope stability and hydrologic/hydraulic conditions are not changed from pre-development values.

10. No significant tree may be removed from slopes greater than 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.



2. Structures on ridges and ridgelines shall not exceed fourteen (14) feet in height and shall be limited to one storey. However, a structure on a ridge or ridgeline that is a one storey 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. Structures 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 using such techniques as variations in height and orientation and 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. All structures shall comply with the requirements of the Wildland Interface Code.

5. Landscaping shall be provided for the cut and fill slopes greater than four feet in height and the facades 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.

7.18. FLOOD PREVENTION AND FLOOD CONTROL.

7.18.1. Statutory Authorization. State statute, 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.

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 June 17, 2008 ("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 § 3-18-7(C) NMSA 1978.

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 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 must 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 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;

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 must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

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 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 must 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 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, must 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 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. Each recreational vehicle that is placed on a site within Zones A1-30, AH, and AE on the FIRM must 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.

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.

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 must 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 must 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 must 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.

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 100 year 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 grant 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.

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

7.19. 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

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, including manure, shall be removed from the property on a regular basis, but not less than monthly.

7.21. AIR QUALITY AND NOISE.

7.21.1. Environmental Performance Standards. 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.

7.21.2. 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 apply with the permit at all times.

7.21.3. 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 7-19 may be considered grounds for denial of a development application, and will permit a code enforcement officer or law enforcement officer to issue a citation of code violations.

Table 7-19: Noise Limits.

Zoning District	Daytime	Nighttime
Industrial and Commercial	70dBA, or 10 dBA above ambient; whichever is less	55dBA, or 5 dBA above ambient; whichever is less
All Other Districts	55dBA, or 5 dBA above ambient; whichever is less	45dBA, or 5 dBA above ambient; whichever is less

7.22. FINANCIAL GUARANTY.

7.22.1. Financial Guaranty Required. Prior to the recording of a final plat or issuance of a development permit for non- residential or multi-family development over 10,000 square feet, the applicant shall submit for approval to the Administrator financial guarantys for construction of any required public or private site improvements or reclamation in accordance with the requirements of this section, as applicable.

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 development agreement and a subdivision improvement agreement as applicable; and

7.22.2.3. Deposited with the Administrator escrow funds, a payment and performance surety bond or a letter of credit, sufficient to cover the cost of completion of all improvements, together with costs, expenses and attorney's fees in the event of default, 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 issuance 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 prepared by a New Mexico registered professional engineer shall be submitted with all financial guarantys.

7.22.4. Form of Guaranty. All guarantys shall utilize the standard County template (guide) for the format and content of such Agreements. The template may be obtained from the Administrator.

7.22.5. Acceptable Security. The security shall be in the form of a payment and performance surety bond, a letter of credit, or cash. The guarantys shall conform to the following standards:

7.22.5.1. 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

7.22.5.2. 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.

or cash in the amount of the cost estimate

7.22.6. Maintenance Bonds. The applicant shall guarantee the improvements against defects in workmanship and materials for a period of five (5) years from the date of acceptance of such improvements. At the time the improvements have been completed and accepted, a maintenance guaranty shall be provided through a letter of credit, payment and performance surety bond or

cash escrow in an amount reflecting 50% of the cost of maintaining the completed improvements.

7.22.7. Engineering Inspection and Tests.

7.22.7.1. The County will charge for construction inspection during construction and for final inspection; however, it is to be understood that the County will do no layout work or daily inspection.

7.22.7.2. The County may require compaction tests on embankments and flexible bases, and depth tests on flexible bases and pavements, pressure tests on piping systems, potability tests on water lines and concrete strength tests, before final inspection and approval. Charges for such inspection shall be as established by Board of County Commissioners resolution from time to time.

7.22.8. Releases and Guarantees.

7.22.8.1. When an applicant has given payment and performance security in any of the forms provided in this Chapter, and when fifty (50%) percent of the 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 guarantee need not be in the same form as the original guarantee. 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.

7.22.8.2. As fifty (50%) percent of the improvements are completed, applicant may submit a written request, prepared by the project engineer, for a partial or full release of the financial guarantee. Such application must show, or include:

1. Dollar amount of commitment guarantee,

2. Improvements completed, including dollar value,

3. Improvements not completed, including dollar value,

4. Amount of previous releases,

5. Amount of commitment guarantee 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 have been completed as provided herein, that portion of the collateral supporting the commitment guarantee shall be released. The release shall be made in writing signed by the Administrator. 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 release to guarantee the survival of the landscaping; 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 Guarantee. 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. Guarantee. The applicant shall require his construction contractors, with whom he contracts for furnishing materials and for installation of the improvements required under this section, and shall himself be required to furnish to the County a written guarantee that all workmanship and materials 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 Build Plans.

7.22.11.1. The Administrator 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 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 the latest version of AutoCAD, or other format compatible with the County GIS as may be specified by the Administrator with all measurements stated in feet.

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.

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 as required by this section. The instruments creating the dedication,

homeowners' association (HOA), condominium association, easement, transfer, or improvement district shall be attached 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 the 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 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 developer shall provide a description of the HOA, including its bylaws and methods for operating and maintaining the improvement;

2. 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;

3. 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;

4. 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 interest charges. Should any bill or bills for maintenance of undivided improvement by the County be unpaid by November 1st of each year, a late fee of 15 percent shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims;

5. 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. Shares shall be defined within the HOA bylaws. The operations and budget plan shall provide for construction of any improvements relating to the improvement within three years following recordation of the plat.

6. 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 all property owners within the development;

7. The HOA shall have or hire staff to administer common facilities and properly and continually maintain the undivided improvement;

8. 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.

9. 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 owner or occupant, as the case may be, of any violation, directly to the owner to remedy same within thirty (30) days.

7.23.4. Condominiums. The undivided improvement and associated facilities may be controlled through the use of permanent condominium agreements, approved by the County. All undivided improvement land shall be held as a common element. A proposed operations budget and plan for long-term capital repair and replacement shall be submitted with the application.

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 the condominium or HOA, provided that:

1. Such easement is accessible to 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, 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 improvement 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

7.23.6.5. A maintenance agreement is entered into initially by the developer and subsequently by the HOA, and the organization.

7.23.7. Improvement or Special Assessment Districts. An improvement or special assessment district may be established pursuant to State law 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

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, 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.

8.3. SUSTAINABLE DEVELOPMENT AREAS (SDAs). Three sustainable development areas (SDA-1, SDA-2, and SDA-3) are established in accordance with the SGMP. The Growth Management Strategy and SDA map are included in §2.2.5 of 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, public service and development within the County.

8.3.1. SDA-1 is characterized by urban and more intensely developed areas, and is expected to have public infrastructure and services readily available for additional development. New non-residential and higher density residential development is most appropriate for SDA-1.

8.3.2. SDA-2 is characterized both by a mix of previously developed areas and areas where future development is likely and reasonable to occur. Land within SDA-2 is expected to urbanize over the next 10 to 20 years as public infrastructure and services are provided and/or expanded.

8.3.3. SDA-3 is characterized by rural and largely undeveloped areas including agricultural lands, ranches, and scattered residential uses at very low densities. Land within SDA-3 is not expected to have significant development over the twenty-year timeframe of the SGMP.

8.4. 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.

8.4.1. 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:	
C	Commercial
I	Industrial
Mixed Use:	
MU	Mixed Use

8.4.2. Planned Development Districts. Planned Development Districts may be established in appropriate areas in lieu of the base district zoning in accordance with §8.10. 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

8.4.3. 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 in the County 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

8.5. OFFICIAL ZONING MAP.

8.5.1. Adoption of Official Zoning Map. All land in the unincorporated area of the County to which this SLDC applies shall be set forth on the County's official 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.

8.5.2. Zoning District Boundaries. Where uncertainty exists as to the boundaries of any zoning district shown on the official zoning map, the following rules shall apply:

> **8.5.2.1.** 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.

8.5.2.2. 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.

8.5.2.3. 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.

8.5.2.4. Where a public road is officially vacated or abandoned, the regulations applicable to abutting property shall apply to the vacated or abandoned road.

8.5.2.5. 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.

8.5.3. Default Zoning. Any property to which the SLDC applies that is not depicted on the zoning map shall be deemed to be located in the A/R zoning district unless otherwise specifically provided for herein.

8.6. USE REGULATIONS.

8.6.1. 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 as provided in Chapter 4. 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 must 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 10.
-	**Prohibited Use:** A dash "-" indicates that the use is not permitted within the district.

8.6.2. 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:

8.6.2.1. 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).

8.6.2.2. 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). The proposed use shall be considered materially similar if it falls within the same industry classification of the NAICS manual.

8.7. RESIDENTIAL ZONING DISTRICTS.

8.7.1. Agriculture/Ranching (A/R).

8.7.1.1. 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.

8.7.1.2. Permitted Uses. Appendix B contains a list of all permitted, accessory, and conditional uses allowed within the A/R district.

8.7.1.3. 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 ft
Lot width (maximum, feet)	n/a
Height (maximum, feet)	36
Front building setback (minimum, feet)	25
Front building setback (maximum, feet)	n/a
Side building setback (minimum, feet)	50 ft
Rear building setback (minimum, feet)	50 ft

8.7.2. Rural (RUR).

8.7.2.1. 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.

8.7.2.2. Permitted Uses. Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the RUR district.

8.7.2.3. 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
Lot width (maximum, feet)	n/a
Height (maximum, feet)	36
Front setback (minimum, feet)	25
Front setback (maximum, feet)	n/a
Side setback (minimum, feet)	25
Rear setback (minimum, feet)	25

8.7.3. Rural Fringe (RUR-F).

8.7.3.1. 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.

8.7.2.2. Permitted Uses. Appendix B contains a list of all permitted, accessory, and conditional uses allowed within the within the RUR-F district.

8.7.2.3. 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
Front setback (minimum, feet)	25
Front setback (maximum, feet)	n/a
Side setback (minimum, feet)	25
Rear setback (minimum, feet)	25

8.7.4. Rural Residential (RUR-R).

8.7.4.1. 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.

8.7.4.2. Permitted Uses. Appendix B contains a list of all permitted, accessory, and conditional uses allowed within the within the RUR-R district.

8.7.4.3. 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
Front setback (minimum, feet)	20
Front setback (maximum, feet)	n/a
Side setback (minimum, feet)	20
Rear setback (minimum, feet)	20

8.7.5. Residential Fringe (RES-F).

8.7.5.1. 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.

8.7.5.2. Permitted Uses. Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the RES-F district.

8.7.5.3. 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
Front setback (minimum, feet)	10
Front setback (maximum, feet)	n/a
Side setback (minimum, feet)	25
Rear setback (minimum, feet)	25

8.7.6. Residential Estate (RES-E).

8.7.6.1. 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.

8.7.6.2. Permitted Uses. Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the RES-E district.

8.7.6.3. 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
Front setback (minimum, feet)	10
Front setback (maximum, feet)	n/a
Side setback (minimum, feet)	25
Rear setback (minimum, feet)	25

8.7.7. Residential Community (R-C).

8.7.7.1. Purpose. The purpose of the Residential Community (R-C) district is to designate areas suitable for suburban-type residential development and other compatible uses. The R-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.

8.7.7.2. Permitted Uses. Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the R-C district.

8.7.7.3. Dimensional Standards. The dimensional standards within the R-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
Front setback (minimum, feet)	5
Front setback (maximum, feet)	n/a
Side setback (minimum, feet)	5
Rear setback (minimum, feet)	5
Lot coverage (maximum, percent)	20%

8.7.8. Traditional Community (TC).

8.7.8.1. 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.

8.7.8.2. Permitted Uses. Appendix B contains a list of all permitted, accessory, and conditional uses allowed within the within the TC district.

8.7.8.3. 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)	80
Lot width (minimum, feet)	70
Lot width (maximum, feet)	n/a
Height (maximum, feet)	24
Front setback (minimum, feet)	5
Front setback (maximum, feet)	n/a
Side setback (minimum, feet)	5
Rear setback (minimum, feet)	5
Lot coverage (maximum, percent)	25%
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.

8.8. NON-RESIDENTIAL ZONING DISTRICTS.

8.8.1. Commercial General (CG).

8.8.1.1. 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.

8.8.1.2. Permitted Uses. Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the CG district.

8.8.1.3. Dimensional Standards. The dimensional standards within the CG district are outlined in Table 8-13.

8.8.1.4. Review/approval procedures. All CG developments must meet the design standards of this section in addition to the applicable standards of Chapter 7. A master site plan must be approved in accordance with procedures outlined in Chapter 4.

Table 8-13: Dimensional Standards – CG (Commercial General).

Zoning District	CG
Density	n/a
Frontage (minimum, feet)	40
Lot width (minimum, feet)	n/a
Lot width (maximum, feet)	n/a
Height (maximum, feet)	48
Front setback (minimum, feet)	5
Front setback (maximum, feet)	100
Side setback (minimum, feet)	0
Rear setback (minimum, feet)	30
Lot coverage (maximum, percent)	80
Maximum building size (individual)	25,000
Maximum building size (aggregate)	75,000

8.8.2. Industrial (I).

8.8.2.1. Purpose. The Industrial (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 must be located in areas where conflicts with other uses can be minimized to promote orderly transitions and buffers between uses.

8.8.2.2. Permitted Uses. Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the I district.

8.8.2.3. Dimensional Standards. The dimensional standards within the I district are outlined in Table 8-14.

8.8.2.4. Review/approval procedures. All I developments must meet the design standards of this section in addition to the applicable standards of Chapter 7. A master site plan must be approved in accordance with procedures outlined in Chapter 4.

Table 8-14: Dimensional Standards – I (Industrial).

Zoning District	I
Density (maximum, dwelling units/acre)	n/a
Frontage (minimum, feet)	50
Lot width (minimum, feet)	n/a
Lot width (maximum, feet)	n/a
Height (maximum, feet)	50
Front setback (minimum, feet)	20
Front setback (maximum, feet)	n/a
Side setback (minimum, feet)	30
Rear setback (minimum, feet)	30
Lot coverage (maximum, percent)	70%
Maximum building size (individual)	50,000*
Maximum building size (aggregate)	100,000*

*Building size may be increased up to 100,000/200,000 with the issuance of a conditional use permit.

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 8-15) 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.

8.9.3. Location. SDA 1 areas with adequate public facilities and services.

8.9.4. Permitted Uses. Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the MU district.

8.9.5. Dimensional Standards. The dimensional standards within the MU district are outlined in Table 8-15.

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 master site plan must be approved in accordance with procedures outlined in Chapter 4 for any mixed use development that includes more than 24 residential units or non-residential uses.

Table 8-15: Dimensional Standards – MU (Mixed Use).

MU Zoning District	If residential uses only	If at least 10% commercial use
Density (minimum/maximum, dwelling units/acre)	2/5	2/12
Frontage (minimum, feet)	50	50
Lot width (minimum, feet)	50	50
Lot width (maximum, feet)	n/a	n/a
Height (maximum, feet)	36	48
Front setback (minimum, feet)	0 *	0 *
Front setback (maximum, feet)	n/a	n/a
Side setback (minimum, feet)*	0 *	0 *
Rear setback (minimum, feet)	5	5
Lot coverage (maximum, percent)	60%	70%
Maximum building size (individual)	n/a	n/a**
Maximum building size (aggregate)	n/a	n/a**

* 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.

**The gross floor area of any single commercial establishment may not exceed 10,000 square feet.

8.9.7. 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.

8.9.7.1. Site Planning. Mixed use developments shall demonstrate compliance with the following site planning performance standards:

1. Provision of safe ingress and egress, pedestrian and vehicular circulation.

2. Provision of integrated circulation of roads, walkways and trails both within and external to the development.

3. Provision of adequate stacking or vehicle queuing room at driveways and road intersections may be required, based on engineered traffic studies and calculations, as required by the Administrator, consistent with the SGMP.

4. Where practical, shared access and circulation should be provided 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 may be required, as determined by the Administrator, consistent with the SGMP.

6. Outside storage shall be screened from view from public roads and neighboring properties.

7. Where practical, service vehicle accesses and parking areas should be separated from customer parking and circulation.

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.

8.9.7.2. Services. Mixed-use developments shall at a minimum include 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. Lighting shall not create glare, and shall be downward facing and/or shielded and directed away from neighboring properties.

3. Security lighting shall be provided in parking and designated outdoor recreation areas. Security lighting shall minimize glare, shall be downward facing and/or shielded, and shall be directed away from neighboring properties.

4. Garbage, maintenance, and recycling facilities shall be screened.

5. Pedestrian connections to adjacent development shall be provided, where practical, in public rights-of-way, or along designated trail corridors.

8.9.7.3. Open Space and Recreation. Usable open space and recreation areas shall be required within duplex and multifamily residential developments consistent with the design standards in Chapter 7 and the following:

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.

8.9.7.4. Landscaping. Landscaping shall comply with Chapter 7. The use of existing native vegetation is preferred whenever possible, and may be used in lieu of or in combination with new plantings to demonstrate substantial consistency with the plant and screening standards in Chapter 7. Landscaping shall also demonstrate compliance with the following performance standards:

1. Landscaped areas between public roads and parking shall be provided.

2. Outside storage, including garbage, recycling and maintenance facilities, shall be screened from view from public roads and neighboring properties.

8.9.7.5. Off-road Parking. Parking shall comply with Chapter 7. The parking plan shall also demonstrate compliance with the following performance standards:

1. Parking areas shall be located behind or under buildings where practicable; except that attached garages shall be allowed for duplexes.

2. The number of access points from parking areas to public roads shall be minimized or shall be shared (where possible) within a development.

3. Parking areas shall include landscaping, fencing and/or berming substantially equivalent to the standards in Chapter 7 when abutting existing single-family residences or residential zoning districts.

4. Parking lighting shall not create off-site glare, and shall be downward facing and/or shielded and directed away from neighboring properties.

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. Planned development districts must be consistent with the goals, policies and standards of the SGMP. 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.

8.10.2.2. Application. Every application for PD zoning shall be accompanied by a master site plan and any concurrent preliminary subdivision plat, where applicable.

8.10.2.3. Evaluation 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 apply to master site plans. 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.

4. Private roads and gates may be approved as part of the application but are not required. They shall conform to Chapter 7.

8.10.2.4. Minimum Size. The minimum size for a PD district is five acres.

Table 8-15: Dimensional Standards – PD (Planned Development).

PD Zoning District	If residential uses only	If at least 10% commercial use
Density (minimum/maximum, dwelling units/acre)	2/5	2/12
Frontage (minimum, feet)	50	50
Lot width (minimum, feet)	50	50
Lot width (maximum, feet)	n/a	n/a
Height (maximum, feet)	36	48
Front setback (minimum, feet)	0 *	0 *
Front setback (maximum, feet)	n/a	n/a
Side setback (minimum, feet)*	0 *	0 *
Rear setback (minimum, feet)	5	5
Lot coverage (maximum, percent)	60%	70%
Maximum building size (individual)	n/a	n/a**
Maximum building size (aggregate)	n/a	n/a**

* 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.

**The gross floor area of any single commercial establishment may not exceed 10,000 square feet.

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 plan. Density limits are used to determine the maximum number of permitted dwelling units.

2. Density Table. The master site plan shall divide the PD district into land-use categories and shall indicate the uses permitted in each category.

3. Lots. 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.

1. Height Limitation. The maximum height of structures shall be as prescribed for each land-use category or category of uses.

2. Required Setbacks. Setbacks shall be governed by the PD master site plan. Lots located on the perimeter of a PD district shall adhere to the minimum and maximum setback requirements of the base zoning district 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. If access to a garage or carport is provided from the front or side of a lot, then the garage/carport shall maintain a 20-foot setback from the back of the sidewalk, or curb if there is no sidewalk, as measured along the centerline of the driveway.

8.10.2.7. Infrastructure Requirements.

1. Roads and Sidewalks. Roads within a PD district may be public or private. However, the planning commission may require dedication and construction of public roads through or into a PD district. Roads shall conform to the design standards in Chapter 7.

2. Utilities. All utility systems shall comply with the utilities standards in Chapter 7. Water and sanitary sewer systems may be publicly or privately owned; however, the maintenance of private systems shall be the responsibility of the proposed development's community association. Public utility systems shall be approved by the County.

3. Easements. 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. Parks/Open Space. Each master site plan shall provide for a minimum amount of parks/open space as required by Table 8-16.

Table 8: Planned Development Parks and open space requirements.

Land Use Category	Required Parks/Open Space*
Residential	2,500 SF per dwelling unit
Nonresidential	200 SF per 1,000 SF of floor area, and 250 SF per 1,000 SF of parking and loading area

*They are 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. For PD districts that include both residential and nonresidential uses, the required open space shall be calculated by multiplying the open space percentage by the area of each use and adding the products thus obtained.

8.10.2.9. Reduction in Parks/Open Space. At its discretion, the planning commission may approve a decrease in the amount of required parks/open space when the master plan includes unique design features or amenities that achieve an especially attractive and desirable development such as, but not limited to, terraces, sculptures, water features, preservation and enhancement of unusual natural features, or landscape sculpture (i.e., areas that are intensely landscaped).

8.10.2.10. Parking Requirements. Off-road parking and truck loading facilities shall be provided in accordance with the parking standards in Chapter 7.

8.10.2.11. Common Areas and Facilities. Adequate provision shall be made for a community association or other legal entity with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common areas and facilities, including private roads and sidewalks, which are a part of the PD district. The applicant shall submit a legal instrument establishing a plan for the use and permanent maintenance of the common areas/facilities and demonstrating that the community association is self-perpetuating and adequately funded to accomplish its purposes, and providing the County with written permission for access at any time without liability when on official business, and further, to permit the County to remove obstructions if necessary for emergency vehicle access and assess the cost of removal to the owner of the obstruction. The instrument must be approved by the County as to legal form prior to any plat recordation and shall be recorded at the same time as the plat.

8.10.2.12. Physical Development. After the PD zoning is granted, all physical development in the PD district shall comply with the provisions of the approved master plan including all subdivision plats proposed within the district.

8.10.3. Planned Traditional Neighborhood Development (PD-TND). Reserved.

8.10.4. Planned Neighborhood Center (PD-NC). Reserved.

8.10.5. Planned Regional Center (PD-RC). Reserved.

8.10.6. Planned Campus/Opportunity Center (PD-C/O). Reserved.

8.10.7. Planned Transit Oriented Development (PD-TOD). Reserved.

8.10.8. Planned Conservation Subdivision (PD-CS). Reserved.

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 business, commercial, service-related, and limited industrial activities that are provided with adequate infrastructure and that would not cause a detriment to any abutting rural residential lands. This zone is appropriate for areas of the county 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.

8.11.2.2. Location. The Rural Commercial Overlay is appropriate for use in the A/R, RUR, RUR-F, and RUR-R districts on parcels accessing a state or a county arterial or collector road.

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. 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 as provided in this chapter:

1. 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:

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 five (5) 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.

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 via by overlay zone to all or portions of areas with an adopted community plan:

1. To recognize the diversity of issues and character in individual communities in the unincorporated parts of the County.

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.

5. To enhance identifiable attributes of design, architecture, history or geography

8.11.3.2. Purpose. The community overlay district establishes zoning that will implement the recommended land uses in all or portions of an adopted community plan in accordance with Chapter 2.

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 must be established by a separate resolution of the Board in accordance with the zoning amendment procedures established in §1.15.

2. Community Plan Prerequisite. Prior to the establishment of a community overlay district, a community plan must 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 and minimum lot size;

d. lot coverage;

e. setbacks;

f. building height; and

g. uses.

2. A community overlay district shall not restrict the following:

a. Countywide policies and priorities;

b. County affordable housing requirements;

c. 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; or

h. other uses determined by the Administrator as necessary for the health and safety of the community.

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.

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 from new development. Boundaries may be modified as necessary by the County 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. 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 anticipated outside Environmental and Resource Protection Overlay zone, the applicant shall avoid disturbance to these areas and undertake 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 performance guarantees ensuring fulfillment of, and compliance with, the mitigation plan. Buffer zones shall be established adjacent to areas of priority protection, as reasonably appropriate.

8.11.4.5. Restoration, Protection and Preservation. All development within the Environmental and Resource Protection Overlay zone shall ensure:

1. Restoration of previously disturbed or degraded areas.

2. If the development site contains areas or corridors 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.

4. Projects located adjacent to and within an O-ERP zone shall be designed 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.

8.11.5. 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.

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.

8.11.5.3. Designation Criteria. To be designated as an O-HP zone, the site or area must be accepted for listing 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. Purpose. This overlay zone establishes compatible uses in close proximity to airports.

8.11.6.2. 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 Ldn 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. Ldn Zone 1.

2. Ldn Zone 2.

3. Ldn Zone 3.

4. Ldn Zone 4.

8.11.6.3 Uses Allowed. Only uses designated in this section shall be allowed within the Ldn zones.

1. Any development which is proposed that is in more than one zone shall be limited to the more restrictive zone.

2. A conditional use permit is required for any development within Ldn, 2, 3 or 4.

3. The following are designated compatible uses in Ldn Zone 4:

a. open space

b. sand and gravel mining

c. fishing

d. agriculture except mink and poultry production.

4. The following are designated as compatible uses in Ldn Zone 3;

a. all uses designated as compatible in Ldn Zone 4.

b. playgrounds and parks, including amusement parks.

c. golf courses, tennis courts, riding and hiking trails, and cemeteries.

d. commercial establishments including wholesale, manufacturing, transportation, communication and utilities, but excluding outdoor theaters, stadiums and retail trade establishments.

e. other agricultural uses.

5. The following are designated as compatible uses in Ldn Zone 2:

a. all uses designated as compatible in Ldn Zone 3 and 4.

b. retail trade establishments.

c. hotels and motels, provided that construction techniques provide ten decibels extra noise reduction over the industry average for similar structures and that such reduction is certified by a qualified architect, structural engineer or acoustical engineer registered in the State of New Mexico; and further provided that airport hazard insurance is available to the establishment.

6. Properties within Ldn Zone 1 are subject to the uses allowed in the underlying zoning district.

8.12. BONUS AND INCENTIVE ZONING. (Reserved).

CHAPTER NINE – COMMUNITY DISTRICTS

9.1. PURPOSE. The Community District is a zoning tool intended to preserve and protect unique communities and areas through the implementation of an adopted Community Plan that is consistent with the SGMP as set forth in Chapter 2. As a matter of public policy, Santa Fe County aims to preserve, protect, enhance, and perpetuate the value of these areas through the establishment of Community Districts. The Board, pursuant to Chapter 8, may establish Community District Overlay Zones (O-CD) that are consistent with the SGMP, an adopted Community Plan and any applicable Land Use Plans adopted by the County.

9.2. ESTABLISHMENT OF COMMUNITY DISTRICT OVERLAY ZONES. Chapter 8 sets forth the standards and procedures for establishment of a Community District Overlay Zone (O-CD) to implement the zoning-related provisions of an adopted Community Plan. With the adoption of the SLDC, local communities are encouraged to revise their Community Plans to become consistent with the SGMP and this ordinance, and to propose appropriate overlay zoning regulations to establish an O-CD in accordance with Chapter 8. Upon the establishment of an O-CD for any given Community District, the regulations of the applicable O-CD will be inserted into this section and become part of the SLDC.

9.3. EFFECT OF SLDC ON EXISTING COMMUNITY DISTRICTS. Prior to the adoption of the SLDC, numerous community districts were established by ordinance, and these individual community district ordinances shall remain in effect until such time as new community plans are adopted in accordance with Chapter 2, and a corresponding O-CD is established in accordance with Chapter 8. Previously established community districts are as follows:

9.3.1. Los Cerrillos Community District (Ordinance 2000-8, amended by Ordinance 2006-11).

9.3.2. Santa Fe Community College District (Ordinance 2000-12).

9.3.3. Tesuque Community District (Ordinance 2000-13).

9.3.4. Madrid Community Planning District (Ordinance 2002-1).

9.3.5. San Pedro Community District (Ordinance 2002-2).

9.3.6. La Cienega and La Cieneguilla Community Planning District (Ordinance 2002-9).

9.3.7. El Valle de Arroyo Seco Highway Corridor District (Ordinance 2003-7).

9.3.8. U.S. 85 South Highway Corridor District (Ordinance 2005-08).

9.3.9. Tres Arroyos Del Poinente District (Ordinance 2006-10).

9.3.10. Village of Agua Fria Planning District (Ordinance 2007-2).

9.3.11. Pojoaque Valley Community District (Ordinance 2008-5).

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 must 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. 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 remains as a single-family detached lot.

10.4.2. Applicability. This section applies to any accessory dwelling unit located in a building that is not attached to the principal dwelling. Accessory dwelling units must 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 the this §10.4.

10.4.2.1. Occupancy.

1. Only immediate family members may occupy the principal dwelling unit and the accessory dwelling unit.

2. The property owner shall execute an affidavit that the accessory dwelling unit is accessory to the principal dwelling unit and that the owner will at all times comply with the provisions of this § 10.4.2. This affidavit will be recorded with the County Clerk.

10.4.2.2. Number Permitted. Only one accessory dwelling unit shall be permitted per legal lot of record.

10.4.2.3. 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.

10.4.2.4. 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.

10.4.2.5. 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 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) 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 persons unrelated by blood, marriage, adoption, or guardianship reside with one or more resident counselors or other staff persons. A "handicapped person" means a person with a significant temporary or permanent physical, emotional, or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but not including mentally ill persons.

10.5.3. Fair Housing Act Protections. The Hearing Officer may render an interpretation that any other facility, which is protected by the federal FHA, 42 U.S.C. § 3601 et seq., but not expressly enumerated in §10.5.2, Applicability, of this section, is subject to the protections provided by this section. The Hearing Officer may waive any provision of this section upon determination that the waiver is necessary to afford handicapped persons equal opportunity to use and enjoy a dwelling.

10.5.4. 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.

10.5.5. 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 promoting 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, must 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; or

10.6.2.3. Adequate infrastructure is not in place.

10.6.3. Requirements for all home occupations.

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 shall occur between the hours of 8 a.m. and 8 p.m. Monday through Saturday. Deliveries shall occur Monday through Saturday during daylight hours.

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 normal 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 must occur within the home and any permitted accessory buildings. 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. 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 low 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
Area used for business (maximum)	25% of heated square footage	35% of heated square footage	50% of heated square footage
Accessory building storage	minimal	600 SF	1,500 SF
Appointments/patron visits (max/day)	none	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	no impact	see §10.6.5	see §10.6.5

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 must 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.

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. Vehicles to be repaired shall be located within an enclosed building or in an area not visible from public view.

10.7. DENSITY VERIFICATION FOR RESIDENTIAL CONDOMINIUMS.

10.7.1. Applicability. Subsections 2-4 of this section apply 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 change the number of condominium units or reserved development rights. Subsection 5 applies to all residential condominiums in existence as of the adoption date of the SLDC.

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 form the Administrator that the condominium complies with these Chapters.

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.

10.7.5. Existing Residential Condominiums.

10.7.5.1. Conforming. A condominium (including constructed condominium units and unconstructed condominium units in the form of reserved development rights) is in conformance with this section when:

1. The condominium meets the zoning density requirements of Chapter 9; 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.

10.7.5.2. Nonconforming. A condominium (including constructed condominium units and unconstructed condominium units in the form of reserved development rights) existing at the adoption of this section that is not in conformance with subsection 10.7.5.1 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 complies with all other applicable sections of the SLDC.

2. Unconstructed Units. Unconstructed condominium units in the form of reserved development rights 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 and are nonconforming uses and structures. Such units must be issued all required development approvals to become subject to .1 of this subsection.

10.8. SWIMMING POOLS.

10.8.1. Applicability. Swimming pools are prohibited for new development; only a development that received final plan or plat approval, or development plan approval, that included a swimming pool or pools within the approved plat or plan prior to the enactment of the Santa Fe County Land Development Code, Ordinance No. 1996-10 may have a swimming pool.

10.8.2. Definitions.

10.8.2.1. "Community Swimming Pool" means a pool that is regularly used by more than the members of a single household and invited guests, and may be open to the public or private.

10.8.2.2. "Community Water System" shall have the meaning given in the Santa Fe County Land Development Code (1996, as amended).

10.8.2.3. "Swimming Pool" or "Pool" is any container filled with water whose surface area is greater than 150 square feet, and that is intended for use for swimming or bathing, whether located indoors or outdoors. A "swimming pool" is not a spa, a hot tub, a reflecting pool, a fish or other decorative pond, a mirror pool or similar container of water whose total depth is six inches or less irrespective of surface area, or an ornamental fountain. The phrase "swimming pool" includes a lap pool whose surface area is more than 150 square feet.

10.8.3. Restrictions on Construction of Swimming Pools, Temporary Restrictions on Construction of Swimming Pools

10.8.3.1. Construction of a Swimming Pool is not permitted unless specifically approved pursuant to the provisions of this Ordinance.

10.8.3.2. 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.

10.8.4. Permitted Swimming Pools.

10.8.4.1. New Construction. Construction of a new Swimming Pool shall be permitted, so long as:

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;

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;

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

4. the Swimming Pool is covered when not in use, except for a Community Swimming Pool.

10.8.4.2. Replacement Swimming Pools. An existing Swimming Pool may be replaced with a Swimming Pool without being subject to the conditions set forth in § 10.8.4.1, so long as:

1. the replacement Swimming Pool is of the same total volume as the pool being replaced; and

2. the existing Swimming Pool was properly permitted under County ordinances in effect at the time of initial construction; and

3. the replacement Swimming Pool is covered when not in use.

10.8.5. Design.

10.8.5.1. 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.

10.8.5.2. 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.

10.8.5.3. 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.

10.8.5.4. Filtering systems employed on each new Swimming Pool, and any Swimming Pool filtering system installed after the effective date of this Ordinance, 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.

10.8.6. Operation.

10.8.6.1. Leaks in any Swimming Pool, whether or not that pool was permitted pursuant to the provisions of this Ordinance, must be permanently and promptly repaired.

10.8.6.2. All Swimming Pools must be properly cared for so as to prevent the need for draining and refilling.

10.8.6.3. Sand-type filters must be replaced with cartridge-type filters, a filter using diatomaceous earth, or other current technology, when replaced, and Swimming Pools shall not be drained and painted.

10.8.7. Filling and Refilling the Swimming Pool.

10.8.7.1. 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 Section 4(A) herein.

10.8.7.2. 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.

10.8.8. Water Requirements.

10.8.8.1. Requirements for Pools Utilizing Wells. For applications desiring to use a

well to fill the swimming pool initially and to keep the pool filled after initial filling, a copy of the well log must be supplied along with the application. If a well that is shared among two or more property owners is to be used to fill the swimming pool initially and to keep the well filled after initial filling, a copy of any well agreement must be supplied along with the application. If a well that is shared among two or more property owners is proposed for use, a plat that shows the relevant well and the location of each property that shares the use of the well must be provided. Documentation of water uses on the property must be provided, and, if a well is metered, meter readings for the last two years must be provided.

10.8.8.2. Requirements for Pools Utilizing A Public Water Supplies. If water is to be supplied by the County, a municipality, a Mutual Domestic Water Association, a Water and Sanitation District or by a public water supply regulated by the Public Regulation Commission, a letter from the supplier agreeing to supply the necessary 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, must be supplied along with the application.

10.8.8.3. Water Restrictions or Private Covenants. If the given lot is subject to water restrictions or subject to private covenants, a copy of the relevant restrictions shall be supplied along with the application.

10.8.9. Medical Exemption. The requirements of this § 10.8 may be waived upon a showing that construction and use of a Swimming Pool is necessary as treatment for a medical condition.

10.9. TEMPORARY USES.

10.9.1. Applicability. Authorized temporary commercial uses, including permitted locations, duration, and number per year, and whether a zoning development approval is required, are as set forth in Table 10-2. Additional requirements for certain uses are included in subsections 10.9.2 – 10.9.6.

10.9.2. Construction-Related Uses. Temporary buildings and structures are permitted in any district in connection with and on the site of approved building and land development or redevelopment while such development is actively occurring, including, but not limited to, grading, paving, installation of utilities, and building construction; and such buildings or structures may include offices, construction trailers or construction dumpsters and storage buildings. Construction dumpsters are subject to the following:

10.9.2.1. 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;

10.9.2.2. 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

10.9.2.3. 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.

10.9.4. Public Assembly. Temporary buildings, structures, or tents for public assembly (including carnivals, circuses, and similar events) are permitted 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 site for a consecutive period exceeding one week;

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.

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	C, I	60 days	1	no
Office in a model home	any	6 months, renewable for additional (up to) 6 month periods	n/a	yes
Fireworks stand	C, I	30 days	1	yes
Temporary outdoor retail sales	C	10 days	4	yes (unless shown on approved site development plan)
Produce stand or farmers' market	All rural	90 days renewable for additional (up to) 6 month periods	n/a	no
Public assembly (carnival, fair, circus, festival, show, exhibit, concert, or similar	C, I	up to 1 week	n/a	yes
Yard/garage sales	any residential	2 consecutive days, limited to daylight hours	n/a	no
Film production	any	10 days	n/a	yes

10.10. ITINERANT VENDORS.

10.10.1. Applicability; Exceptions.

10.10.1.1. This section shall apply to all itinerant vendors as defined in Appendix A. An itinerant vendor shall not be relieved from complying with the provisions of this section merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such temporary business in connection with, as part of, or in the name of any local dealer, trader, merchant, or auctioneer.

10.10.1.2.

10.10.1.3. The provisions of this section shall not apply to persons selling only fruits, vegetables, berries, eggs, or any farm produce.

10.10.2. License/Permit. An itinerant vendor must operate at all times under an approved business license issued by the County.

10.10.3. Standards. All itinerant vendors shall conform to the following standards:

10.10.3.1. Operation is permitted only 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 to be obstructed the passage of any sidewalk, road, avenue, alley or any other public place, by causing people to congregate at or near the place where goods, wares, food, or merchandise of any kind is being sold or offered for sale.

10.10.3.3. An itinerant vendor shall be out of the public right of way and shall not locate his or her 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 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. No signs or signage shall be permitted other than that which can be contained on the vehicle or conveyance utilized or as otherwise allowed.

10.10.3.5. No vehicle, other conveyance or temporary stand 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 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 of business for customer use.

10.10.3.8. Itinerant vendor sites shall be cleaned of all debris, trash, and litter at the conclusion of daily business activities.

10.10.3.9. An itinerant vendor shall not sell or vend from his or her vehicle or conveyance:

1. Within four hundred feet (400') of any public or private school grounds during the hours of regular school session, classes, or school related events in said public or private school, except when authorized by said school.

2. Within three hundred feet (300') of the entrance to any business establishment offering as a main featured item or items similar products for sale which is open for business, except when 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 except as approved by the Administrator.

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.

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. Outdoor sales and display must be customarily incidental to a principal use in the district in which the outdoor sales and display is permitted By the Use Matrix. 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 must 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

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 **s**creened 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 supercede 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;

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.

10.14.2.8. The perimeter of the park shall be landscaped to blend with the surrounding land contours and vegetation.

10.14.2.9. 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.

10.14.2.10. 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. COMMUNITY SERVICE FACILITIES. Reserved.

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.

10.16.3. 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.

10.16.4. Small-Scale Wind Energy Facilities. Small-scale wind facilities are those that are equal to or less than ninety (90) feet in total height above ground level, including the highest extension of the turbine blade.

10.16.4.2. 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 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 15 feet above the ground (at grade level) and in addition at least 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. A one acre minimum lot size is required for all turbines.

3. For one acre up to 2.5 acres, the total tower (including height of turbine blade) height is limited to 55 feet. A set-back of 1.1 times the total height from on-property habitable structures and two times set-back from off-property habitable structures is required.

4. For parcels equal to or greater than 2.5 acres, 55 foot height limitation and same set-back requirements as less than than 2.5 acres, but noticing of nearby property owners is not required.

5. For parcels equal to or greater than 2.5 acres, 90 foot height limitation and three times height set-back from off-property habitable structure.

6. For parcels equal to or greater than 10 acres, a setback of five times the height is required from off-property habitable structures.

7. Small-scale wind energy facilities are prohibited within 500 feet of public

parkland, areas of historical or cultural significance, natural areas and nature preserves.

10.16.4.3. Appearance.

1. No small-scale wind energy facility shall be used for signage, promotional or advertising purposes, including but not limited to company names, phone numbers, flags, banners, streamers, and balloons.

2. Small-scale 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 small-scale wind energy facility shall be artificially lighted except to the extent required by the Federal Aviation Administration or other applicable authority.

10.16.4.4. Safety Standards.

1. Towers shall be constructed to provide one of the following means of access control:

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

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 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 small-scale wind energy facility shall be equipped with an automatic braking or governing system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components.

6. The small-scale 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

§10.16.10.

7. The small-scale wind energy facility must 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 small-scale wind energy facility is installed, a distance equal to 1.1 times the length of the height of the tallest small-scale wind energy facility must be maintained between the bases of each small-scale wind energy facility.

10. For building-mounted wind systems, a letter or certificate bearing the signature of a certified New Mexico professional engineer must be submitted to the Administrator, indicating that the existing structure onto which the small-scale small wind energy facility is capable of withstanding the additional load, force, torque, and vibration imposed by the small-scale wind energy facility for the foreseeable future; will comply with seismic and structure provisions set out in County, State and national building codes; all related components have been designed in accordance with generally accepted good engineering practices and in accordance with generally accepted industry standards; 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 and industry standards, including, without limitation, acceptable standards for stability, wind and ice loads.

10.16.4.5. Noise. Small-scale wind energy facilities shall not exceed 55 dB(A) as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages or severe wind storms.

10.16.4.6. 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 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. Generally. Large wind energy facilities shall be limited to the A/R zoning district. No large wind energy facility, or addition to an existing large wind energy facility, shall be constructed or located within the County unless a permit has been issued to the facility owner or operator approving construction of the facility.

2. Development Approval. A large wind energy facility shall obtain a conditional use permit, the application for which shall contain the following:

a. A site development plan showing the planned location of all wind turbines, property lines, setback lines, access roads and turnout locations, substation(s), ancillary equipment, building(s), transmission and distribution lines. The major site plan must also include the location of all structures and properties, demonstrating compliance of the setbacks;

b. A narrative describing the proposed facility, including an overview of the project;

c. A review of the adequacy, location, arrangement, size and design of the proposed facility, including but not limited to general site compatibility, including a visual impact analysis of the facility, as installed, which shall include, at a minimum, a photographic simulation, viewshed map, visible screening intended to lessen the facility's visual prominence, the color treatment of the system's components, and an inventory documenting significant designated resources located within the line of sight of the development;

d. The proposed total rated capacity of the facility;

e. The proposed number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities;

f. Identification and location of the properties on which the facility will be located;

g. Certification of compliance with applicable local, state and Federal regulations, such as FAA and FCC regulations;

h. Decommissioning plans that describe the anticipated life of the facility, the estimated decommissioning costs in current U.S. dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the facility will be decommissioned and the site restored;

i. A proposed development agreement between the property owner, the County and the facility owner, specifying all proposed conditions of the development order;

j. Proof that the large wind energy facility has access to an existing transmission grid capable of moving the electrical energy created to a sufficient market capable of using the energy transmitted. If the applicant proposes to create a new transmission grid or extend an existing grid, the

applicant shall attach to the application information as to the financing, location, easements or rights of way for the construction of the transmission grid and shall include any requests for creation of a planned improvement district, or planned utilization of available county incentives, and state or federal grants, tax credits or tax deductions; and

k. Signature of the applicant, property owner and wind energy facility operator.

3. 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 Llloyd Wind Energies, or other similar certifying organizations.

2. Uniform Construction Code. The facility must meet all applicable State and County Fire Prevention and Building Code requirements.

3. Controls and Brakes. All large wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) 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.

4. Electrical Components. All electrical components of the facility shall conform to applicable local, state and national codes, and relevant and applicable international standards.

5. Visual Appearance. Large wind energy facilities shall be painted or finished with a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and shall incorporate non-reflective surfaces to minimize visual disruption.

6. Lighting. Large wind energy facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.

7. Signage. A large wind energy facilities shall not be used as signage for promotional or advertising purposes, including but not limited to company names, phone numbers, banners, streamers, and balloons.

8. Wiring. All wiring connected with the facility shall be underground, except

for:

a. Wiring that runs from the turbine to the base of the facility; and

b. "Tie-ins" to a public utility transmission poles, towers and lines.

9. Warnings.

a. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

b. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten feet from the ground.

10. Climb Prevention/Locks. Towers shall be constructed to provide one of the following means of access control:

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

c. A locked protective fence at least six feet in height that encloses the tower.

11. Setbacks.

a. Project 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 building or structure a distance of not less than the setback requirements for that zoning classification where the turbine is located or two times the total height of the turbine, including the extension of the turbine blade, whichever is greater. These setback distances shall be measured from the center of the turbine base to the nearest point on the foundation of the building or structure.

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. Wind turbines shall be set back from the nearest property line a distance of not less than the setback requirements for that zoning classification where the turbine is located or two times the total height of the turbine, whichever is greater. The setback distance shall be measured from the center of the turbine base to the property line.

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. Wind turbines 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.

12. 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, 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 bond the road in compliance with state regulations.

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.

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, as measured at the exterior of occupied building or structure on the adjacent property owner's property. 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 and $1 million in the aggregate. Certificates shall be made available to the County upon request.

10.16.5.7. Development agreement. A development agreement is required 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.

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 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 guarantee 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. 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 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.

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 30 feet or less;

10.17.2.2. Any wireless communication facility that is not visible from the exterior of the building or structure in which it is mounted;

10.17.2.3. Amateur radio antennas with an overall height of 100 feet or less that are owned and operated by a federally-licensed amateur radio operator who resides on the same property;

10.17.2.4. Satellite earth stations;

10.17.2.5. Regular 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 section 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
Colocation or roof/surface mounted	P*	P*	P*	P*	P*
New towers, 30-49 feet**	P	P	P	P	P
New towers, 50-74 feet**	CUP	CUP	P	P	CUP
New towers, 75-99 feet**	CUP	CUP	CUP	CUP	CUP
New towers, 100+ feet**	CUP	-	-	CUP	-

* 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 must 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 must 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 §10.17.4.11 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 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.

Antenna Supporting	Collocations	Roof-Mounted	Surface-Mounted	Stealth Facilities	Required Submissions:
•		•		•	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 is to 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 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 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 must 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 Structure.

10.17.4.1. Height. 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 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 must meet the minimum setback requirements for the zoning district in which they are proposed.

2. Antenna supporting structures must 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 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 must 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 the applicant demonstrates that lighting is required by the FAA or the FCC.

2. Site lighting may be placed in association with an approved equipment enclosure but must be shielded to prevent light trespass. Site lighting must remain unlit except when authorized personnel are present.

10.17.4.5. Intensity Requirements. The floor area for a wireless communication 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, must 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 eight (8) feet in height from finished grade must be installed in order to enclose the base of the antenna supporting structure and associated equipment. Access to the antenna supporting structure must be controlled by a locked gate. The fence must 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 must 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 must 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 must 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 must 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 must 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:

> "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 must be mailed not less than 10 business days prior to the pre-application conference required by this section and must 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 must 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 must 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 must 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 must adequately demonstrate that higher-ranked alternatives in the following order cannot be used: flush-mounted, panel, whip and dish. Such demonstration must 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 must 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 must 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 must 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 §10.17.4.13.

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 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 a designated notification height boundary of a private aircraft or helicopter landing facility, as specified on the Airspace Notification Map, will be limited to the height specified, based on the proposed facility's distance from the runway or landing facility.

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 must be screened by a parapet or other device in order to minimize their visual impact as measured from the lot line of the subject property. Roof-mounted facilities must be placed as near the center of the roof as possible.

2. Transmission lines placed on the exterior of a building must 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 must have a monopole-type construction.

10.17.6.5. Color. Roof-mounted structures, ancillary appurtenances, and equipment enclosures must maintain a sandstone finish or other contextual color that is compatible with the environment or 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 §10.17.4.13.

10.17.7. Standards for Surface-Mounted Antennas.

10.17.7.1. Screening and placement. Surface-mounted antennas must be placed not less than 15 feet from the ground and, where proposed for placement on a building, must 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 must 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 must 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 must be limited to that which is consistent with the scale and aesthetic qualities of the proposed facility, and to that which blends and is consistent with the character of 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 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 proposed facility's distance from the runway or landing facility.

10.17.8.2. Setbacks.

1. Stealth wireless communication facilities, ancillary appurtenances, and equipment enclosures must 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 waiver is necessary to reduce the visual impact or enhance the compatibility of the proposed facility on adjacent properties and the surrounding community.

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 must 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 must either:

1. Reactivate the use of the structure as a wireless communication facility or 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 10 years of the effective date of this section, antenna supporting structures made nonconforming by implementation of this section must 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.

10.18. 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 that is used to receive television broadcast signals; 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. 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 materials. Such activity shall be allowed where permitted by the use index, subject to approval of a conditional use permit (§ 4.9.6.) and the additional requirements of this section. If

the extraction activity includes any blasting, then this section does not apply and the operation will be treated as a mining operation under Chapter 11 (Developments of Countywide Impact – 'DCIs'). Similarly, if the extraction operation covers an area larger than 20 acres, it will be treated as a DCI 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. 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.__ (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.

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.

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 plan for reseeding or revegetation may not require seeding or reseeding or revegetation of the open pit, but it shall require a plan to reseed or revegetate the remaining 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, 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. Approval Standards. In addition to meeting those standards required for approval of a conditional use permit under § 4.9.6, the applicant must demonstrate each of the following with respect to the proposed sand and gravel extraction facility:

10.19.4.1. The existence of significant mineral resources at the site.

10.19.4.2. 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.

10.19.4.3. That the site is particularly suited for sand and gravel extraction, in comparison with other reasonably available areas of the County.

10.19.4.4. 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, morals and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the County. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexual 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, 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.

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, morals, and welfare of the patrons of such businesses as well as the citizens of the County;

10.20.1.2. The Board finds that sexually oriented businesses may be used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature;

10.20.1.3. 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;

10.20.1.4. 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;

10.20.1.5. There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values;

10.20.1.6. 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;

10.20.1.7. The Board desires to minimize and control these adverse elects and 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;

10.20.1.8. The Board has determined that locational criteria alone do not adequately protect the health, safety, and general welfare of the people of the County;

10.20.1.9. It is not the intent of this section to suppress any speech activities protected by the First Amendment, but to enact content neutral regulations which address the secondary effects of sexually oriented businesses; and

10.20.1.10. It is not the intent of the Board to condone or legitimize the distribution of obscene material, and the Board recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the County.

The Board observes that evidence exists concerning the adverse secondary effects of adult uses on the community presented to the Board, and cases such as *County of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *FW/PBS, 1nc. v. County of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), *County of Erie v. Pap's A.M.*, 120 S. Ct. 1382 (2000), and on studies conducted in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Indianapolis,

Indiana, Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma County, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News Virginia; Bellevue, Washington; New York, New York; and St. Croix County, Wisconsin; 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 are classified as follows:

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;

10.20.2.7. Escort agencies;

10.20.2.8. Semi-nude model studios; and

10.20.2.9. Sexual encounter centers.

10.20.3. License Required.

10.20.3.1. It is unlawful:

1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the County pursuant to this section.

2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the County pursuant to this section.

3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this section.

10.20.3.2. An application for a license must be made on a form provided by the County. All applicants must be qualified according to the provisions of this section.

10.20.3.3. The application shall be 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, address, social security number and date of birth;

2. The current business address;

3. A set of fingerprints suitable for conducting necessary background checks pursuant to this section;

4. If the application is for a sexually oriented business 1license, the name, business location, legal description, 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 and current photo, a current driver's license with picture, or other picture identification issued by a governmental agency;

6. The issuing jurisdiction and the effective dates of any license or permit held by the applicant relating to a sexually oriented business, and whether any such license or permit has been denied, revoked or suspended, and if so, the reason or reasons therefore.

7. If the application is for a sexually oriented business license, the name and address of the statutory agent or other agent 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, to the Administrator within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

10.20.3.5. 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.

10.20.3.6. If the person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If the person that wishes to operate a sexually oriented business is other than an individual (such as a corporation), each officer director, general partner, or other person who will participate directly in decisions relating to management of the business shall sign the application for a license as the applicant. Each applicant must be qualified under the section entitled "Issuance of License," and each applicant shall be considered as a licensee if a license is granted.

10.20.3.7. A person who possesses a valid business license is not exempt from the requirement of obtaining any required sexually oriented business license. A person who operates a sexually oriented business and possesses a business license shall comply with the requirements and provisions of this section, where applicable.

10.20.3.8. The information provided by an applicant in connection with the application for a license under this section shall be maintained by the Administrator.

10.20.4. Issuance of License.

10.20.4.1. Upon the filing of a completed application for a sexually oriented business license or a sexually oriented business employee license, the Administrator shall issue a Temporary License to the applicant, which Temporary License shall expire upon final decision. Within twenty (20) days after the receipt of a completed application, the

Hearing Officer shall either issue a license or issue a written notice of intent to deny a license to the applicant. The license shall be issued unless one or more of the following is found 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 the information as required by this section for issuance of the license.

4. The applicant has been convicted of a Specified Criminal Activity. The fact that a conviction is being appealed shall have no effect under this Subsection. For the purposes of this subsection, "convicted" means a conviction or guilty plea, and includes a conviction of any business entity for which the applicant had, at the time of the offense leading to the conviction for a Specified Criminal Activity, a management responsibility or a controlling interest.

5. The required license application fee has not been paid.

6. The applicant has falsely answered a question or request for information on the application form.

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).

10.20.4.2. An applicant that is ineligible for a license due to §10.20.4.1.4 may qualify for a sexually oriented business license only when the applicable time period has elapsed:

1. more than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

2. more than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

3. more than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

10.20.4.3. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to that applicant, the expiration date, and whether the license is for a sexually oriented business. A sexually oriented business employee license shall contain a photograph of the licensee. 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. A sexually oriented business employee shall keep the employee's license on his or her

person or on the premises where the licensee is then working or performing, and shall produce such license for inspection upon request by an authorized County official.

10.20.5. Fees. The non-refundable initial license fee and annual renewal fee for a sexually oriented business license or a sexually oriented business employee license shall be set by the Board at an amount determined to be sufficient to pay the cost of administering this program.

10.20.6. Inspection.

10.20.6.1. For the purpose of ensuring compliance with this section, an applicant, operator or licensee shall permit the Administrator and any other federal, state or county agency in the performance of any function connected with the enforcement of this ordinance, normally and regularly conducted by such agencies, to inspect, at any time the business is occupied or open for business, those portions of the premises of a sexually oriented business which patrons or customers are permitted to occupy.

10.20.6.2. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

10.20.7. Expiration of License.

10.20.7.1. Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided above. An application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

10.20.7.2. When the County denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to the denial, the County finds that the basis for denial of the renewal license has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date that the denial became final.

10.20.8. Suspension The Administrator shall issue a written intent to suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

10.20.8.1. Violated or is not in compliance with any portion of this section;

10.20.8.2. Refused to allow an inspection of the sexually oriented business premises as authorized by this section.

10.20.9. Revocation.

10.20.9.1. The Administrator shall issue a written statement of intent to revoke a sexually oriented business license if a cause of suspension occurs and the license has been suspended within the previous twelve (12) months.

10.20.9.2. The Administrator shall issue a written statement of intent to revoke a sexually oriented business license if the Administrator determines that:

1. The licensee gave false or misleading information in the material submitted during the application process;

2. The licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

3. The licensee has knowingly allowed prostitution on the premises;

4. The licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended; or

5. The licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises. This subsection will not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either in exchange for money or in a public place or within public view.

10.20.9.3. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

10.20.9.4. When, after the notice and hearing procedure described in this section, the Administrator revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date of revocation becomes effective, provided that, if the conditions for a provisional license are met, a provisional license will be granted. If, subsequent to revocation, the Administrator finds that the basis for the revocation found in §10.20.9.2.1 or §10.20.9.2.4 has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

10.20.10. Hearing; License Denial, Suspension, Revocation; Appeal.

10.20.10.1. If the Administrator determines that facts exist for denial, suspension, or revocation of a license under this ordinance, the Hearing Officer shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend, or revoke the license, including the grounds therefore, by personal delivery, or by certified mail. The notification shall be directed to the most current business address on file with the Hearing Officer. Within five (5) working days of receipt of such notice, the respondent may provide to the Administrator, in writing, a response that shall include a statement of reasons why the license or permit should not be denied, suspended, or revoked. Within three (3) days of the receipt of respondent's written response, the Administrator shall notify respondent in writing of the hearing date on respondent's denial, suspension, or revocation proceeding.

10.20.10.2. Within ten (10) working days of the receipt of respondent's written response, the Administrator shall conduct a hearing at which respondent shall have the opportunity to be represented by counsel and present evidence and witnesses on his or her behalf. The Administrator shall issue a written opinion within five (5) days of the hearing. If a response is not received by the Administrator in the time stated or, if after the hearing the Administrator finds that grounds as specified in this ordinance exist for denial, suspension, or revocation, then such denial, suspension, or revocation shall become final five (5) days after the Administrator sends, by certified mail, written notice that the license has been denied, suspended, or revoked. Such notice shall include a statement advising the applicant or licensee of the right to appeal such decision to a court of competent jurisdiction.

10.20.10.3. If the Administrator finds that no grounds exist for denial, suspension or revocation of a license, then within five (5) days after the hearing, the Administrator shall

withdraw the intent to deny, suspend, or revoke the license, and shall so notify the respondent in writing by certified mail of such action and shall contemporaneously issue the license.

10.20.10.4. When a decision to deny, suspend, or revoke a license becomes final, the applicant or licensee (aggrieved party) whose application for a license has been denied, or whose license has been suspended or revoked, shall have the right to appeal such action to a court of competent jurisdiction. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the County's enforcement of the denial, suspension, or revocation, the County 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 or to continue employment as a sexually oriented business employee, as the case may be, and will expire upon the court's entry of a judgment on the aggrieved party's action to appeal, challenge, restrain, or otherwise enjoin the County's enforcement.

10.20.11. Transfer of License. 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.

10.20.12. Location of Sexually Oriented Businesses.

10.20.12.1. A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than a district in which sexually oriented businesses are allowed to operate.

10.20.12.2. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one-hundred (100) feet of another sexually oriented business. For purposes of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

10.20.12.3. A person commits a misdemeanor if that person causes or permits the establishment or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

10.20.12.4. A person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business within one-thousand (1,000) feet of the following. For the purpose of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed below. The presence of a County, City or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

1. A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities;

2. A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools,

private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

3. A boundary of a residential zoning district;

4. 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, wilderness areas or other similar public land within the County which is under the control operation, or management of the County park and recreation authorities;

5. The property line of a lot devoted to a residential use;

6. An entertainment business which is oriented primarily towards children or family entertainment; or

7. Any premises licensed pursuant to the alcoholic beverage control regulations of the State.

10.20.13. Non-conforming Use.

10.20.13.1. Any sexually oriented business lawfully operating on the date of adoption of this ordinance, which is in violation of §10.20.12 shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.

10.20.13.2. If two or more sexually oriented businesses are within 100 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

10.20.13.3. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in §10.20.14.4, within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application is made for a license after the applicant's previous license has expired or been revoked.

10.20.14. Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos, or Live Entertainment in Viewing Rooms. A person who operates or causes to be operated a sexually oriented business (other than an adult motel) which exhibits on the premises, in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas shall comply with the following requirements:

10.20.14.1. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any

portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit, if granted, will be conspicuously posted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated road or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The County may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared. It shall be the duty of the licensee to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application.

10.20.14.2. The application shall be sworn to be true and correct by the applicant.

10.20.14.3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the County.

10.20.14.4. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

10.20.14.5. 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 video 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 any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must 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 by any doors, curtains, partitions, walls, merchandise, display racks, or other materials and, at all times.

10.20.14.6. No viewing room may be occupied by more than one (1) person at any time.

10.20.14.7. 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 five (5) foot-candles as measured at the floor level.

10.20.14.8. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that at any patron is present in the premises.

10.20.14.9. No licensee shall allow openings of any kind to exist between viewing rooms or booths.

10.20.14.10. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

10.20.14.11. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

10.20.14.12. The license shall cause all floor coverings in viewing booths to be

nonporous, easily cleanable surfaces, with no rugs or carpeting.

10.20.14.13. The licensee shall cause all wall surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within forty-eight (48) inches of the floor.

10.20.14.14. A person having a duty under this §10.20.14 hereby commits a misdemeanor if he or she knowingly fails to fulfill that duty.

10.20.15. Additional Regulations for Escort Agencies.

10.20.15.1. An escort agency shall not employ any person under the age of eighteen (18) years.

10.20.15.2. A person commits an offense if the person acts as an escort or agrees to act as an escort, for any person under the age of eighteen (18) years.

10.20.16. Additional Regulations Concerning Public Nudity.

10.20.16.1. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or engages in specified sexual activities.

10.20.16.2. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a semi-nude condition 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.

10.20.16.3. It shall be a misdemeanor 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.

10.20.16.4. It shall be a misdemeanor for an employee, while semi-nude, to knowingly and intentionally touch a customer or the clothing of a customer.

10.20.17. Prohibition Against Children in a Sexually Oriented Business. A person commits a misdemeanor if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business.

10.20.18. Hours of Operation. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o‘clock (1:00) a.m. and eight o’clock (8:00) a.m. on weekdays and Saturdays, and one o’clock (1:00) a.m. and noon (12:00 p.m.) on Sundays.

10.20.19. Exemptions. It is a defense to prosecution under §10.20.17 that a person appearing in a state of nudity did so in a modeling class operated:

10.20.19.1. By a proprietary school, licensed by the State of New Mexico; a college, junior college, or university supported entirely or partly by taxation;

10.20.19.2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

10.20.19.3. In a structure:

1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

2. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

3. Where no more than one nude model is on the premises at any one time.

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.

11.2. DESIGNATION. On account of their potential impact on the County as a whole, the following activities are deemed DCIs subject to the requirements of this chapter:

11.2.1. oil and gas drilling and production;

11.2.2. mining and resource extraction;

11.2.3. substantial land alteration;

11.2.4. landfills; and

11.2.5. large-scale feedlots and factory farms.

11.3. REGULATION. The following regulations shall apply to DCIs:

11.3.1. Oil and Gas Drilling and Production. See County Ordinance No. 2008-19.

11.3.2. Mining and Resource Extraction. Reserved (but see Chapter 10).

11.3.3. Substantial Land Alteration. Reserved.

11.3.4. Landfills. Reserved.

11.3.5. Large-Scale Feedlots and Factory Farms. Reserved.

CHAPTER TWELVE – GROWTH MANAGEMENT

12.1. PURPOSE. The purpose of this chapter is to establish growth management through the implementation of the County's growth management Strategy identified in the SGMP. The growth management strategy is to direct growth to areas most efficiently served by adequate facilities and services using a wide range of techniques including Capital Improvement Plan, development fees, funding mechanisms including public improvement and special assessment districts and development agreements. Growth management strategies included in this section include Sustainable Development Areas, the CIP, Development Agreements, and Adequate Public Facilities and Services and the Official Map.

12.2. CAPITAL IMPROVEMENT PLAN.

12.2.1. Purpose and Findings.

12.2.1.1. 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 provides for 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.

12.2.1.2. The CIP 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.

12.2.2. 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.

12.2.3. Analysis Supporting the CIP. The CIP shall be based upon the following analyses:

12.2.3.1. The fiscal implications of existing deficiencies and future needs for each type of public facility and service;

12.2.3.2. The relative priority of need; and

12.2.3.3. An assessment of the likelihood that the needed infrastructure and services can be financed 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, 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.

12.2.4. CIP Implementation. The CIP shall contain:

12.2.4.1. 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 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; and

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.

12.2.4.2. A project description and general location.

12.2.4.3. The CIP will be updated as necessary or at a minimum no less frequently than every two years.

12.3. ADEQUATE PUBLIC FACILITIES REGULATIONS (APFRs).

12.3.1. Purpose and Overview. The purpose of APFRs is to ensure sustainable County growth by requiring that adequate public facilities and services are available concurrently with the completion of new development. 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. Evaluation of public facilities occurs at the time of application for discretionary development approval using the Adequate Public Facilities Assessment (APFA) and remaining SRAs described in Chapter 6. Facilities evaluated through the APFR process include water, sewer, storm water, emergency services, parks, open space and trails, and transportation.

12.3.2. 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.

12.3.3. General Requirements.

12.3.3.1. Any project subject to this section shall not be approved unless it is demonstrated that the County's adopted LOS shall be maintained and not degraded by the impacts of the project for a period of twenty (20) years.

12.3.3.2. Notwithstanding the provisions of § 12.3.3.1., above, it will be assumed in all cases that the adopted LOS requirements are being met by the County whether or not this in fact true. An applicant will not be made responsible for upgrading any LOS to the adopted standard if the adopted standard is not being met before taking into account the impact of the proposed project. The purpose of this subsection is to make clear that the proposed project will be evaluated as if the adopted LOS is being met and that the project cannot degrade the adopted LOS standard.

12.3.4. Determination of Adequacy of Public Facilities and Services.

12.3.4.1. Scope of Determination. For purposes of an application for discretionary development approval, a determination that adequate public facilities and services exist is a determination that:

1. Public facilities and services are either available at the time of issuance of the determination or will be available prior to completion of development; and

2. Public facilities and services are deemed sufficient for subsequent phases to be completed during the approved development period; and

3. Present and future availability of facilities and services shall be assured through a development agreement between the applicant and the County.

12.3.4.2. Possible Findings. The AFPA shall provide information from which any of the following determinations can be made concerning the application for discretionary development approval:

1. Whether the application provides for adequate public facilities and services at the time of development approval;

2. Whether the application must be denied because adequate public facilities and services are not available and will not be made available; or

3. Whether the application must 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 for a future year in which the CIP shows that APF will be built and available; and/or

4. Whether the application must 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 will be advanced, in whole or in part, by the applicant.

12.3.4.3. Expiration of Determination. A development order or development agreement containing a determination of the adequacy of public facilities and services is valid until the earlier of one of the following:

1. The expiration of the development order or development agreement; or

2. Where no expiration period is provided for in the development order or development agreement, the APF determination expires unless construction commences within three years after approval, and is at least 25% complete within four years, 50% complete within five years, 75% complete within six years and 100% complete within seven years after final development approval.

12.3.4.4. Determining Compliance; Methodology. The APFA shall make a determination that adequate public facilities and services are available at the adopted level of service for each public facility and service as set forth in Table 12-1. An LOS not set forth in Table 12-1 shall be the LOS established in the SGMP, the CIP and in any more rigorous standard found in an adopted area or community plan.

1. Compliance with LOS standards shall be measured for each public facility and service 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 it has available capacity to accommodate the demand generated by the proposed development as well as other development approvals that utilize the same infrastructure or services, in accordance with the following calculation methodology:

a. Calculate total capacity by adding together the total capacity of each public facility; and

b. Calculate available capacity by subtracting from the total capacity the sum of:

i. the demand for each public facility created by existing development;

ii. the demand for each public facility created by anticipated completion of development, which have received capacity reservation certificates; and

iii. the demand for each public facility created by the anticipated completion of the proposed development under consideration.

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 Employees	0.93/1,000 residents	countywide
	Fire Vehicles	2.12/1,000 residents	service area (50k residents)
	Fire Facilities	2,673 sf/1,000 residents	service area (50k residents)
	Sheriff Personnel	0.90/1,000 residents	countywide
	Sheriff Vehicles	2.4/1,000 residents	service area (50k residents)
	Sheriff Facilities	120 sf/1,000 residents	service area (50k residents)
Water Supply and Liquid Waste	Water	0.25 acre ft/year (residential)	per residence
		0.27 acre ft/year	per 10,000 sf nonresidential
	Sewer	available capacity for required system per §7.5.2	county utility, local treatment facility, or project site
Parks, Trails and Open Space	Parks	1.25 acres/1,000 residents	countywide
	Trails	1.0 miles/1,000 residents	countywide
	Trailheads	0.36 acres/1,000 residents	countywide
	Open Space	85 acres/1,000 residents	countywide

* Road levels of service are explained in §10.2.2.2 of the SGMP. In general, traffic on a Level C road moves consistent with posted speed limits, but with volumes approaching carrying capacity; traffic on a Level D road moves at speeds somewhat reduced from posted speeds, with motorists hemmed in by other vehicles.

12.3.5. Review Standards for Specific Facilities and Services.

12.3.5.1. Roads.

1. The procedure for calculating LOS for transportation is set forth in the latest addition of the of the Transportation Research Board *Highway Capacity Manual* and the Geometric Design for Highways and Streets ("Green Book") (2011, as amended) of AASHTO. The impact of the proposed development shall be measured by average daily trips and peak-hour trips.

2. The applicant 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:

a. 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;

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

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

12.3.5.2. Fire, Law enforcement, and Emergency Response Services. In determining the impact of the proposed development on the LOS of fire, law enforcement, and emergency service, the County shall primarily take into consideration available personnel and the number and location of available apparatus and fire, law enforcement, and emergency service stations**.**

12.3.5.3. Water. Applications shall be analyzed with respect to the LOS and the availability of adequate potable water supply according to the following factors using the information provided in a Water Service Availability Report required by Chapter 6:

1. whether a public water system that is a 40 year planning agency pursuant to § 72-1-9 NMSA 1978 has a forty (40) year supply of water to provide service;

2. in SDA-2 and SDA-3, whether a proposed well or wells is available to provide service, subject to the regulations for wells set forth in Chapter 7;

3. 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;

4. whether the Water Service Availability Report provides 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 provided.

12.3.5.4. Sewer. Applications shall be analyzed with respect to the LOS and availability of adequate sanitary sewer capacity and shall be determined pursuant to the following information:

1. the availability of hook-up to the County or a public sewer system, or to a public or private community sewer system that provides tertiary sewerage treatment in accordance with the requirements of Chapter 7;

2. historical average daily flow of treated sewage;

3. historical peak flow of treated sewage;

4. the 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 public or private sewer system capacity;

7. the applicant shall provide documentation substantiating that the project meets the LOS and will provide capacity to serve the development. 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.

12.3.5.5. Community Parks, Trails, and Open Space.

1. All county and community parks, trails and open space shall be identified in the CIP and the land and right-of-way of those sites shall be placed on the Official Map.

2. In determining compliance with the LOS standard for county and community parks, trails and open space, the distance of a proposed development from the nearest available county or community park, trail and open space shall be considered for purposes of determining compliance with the adopted LOS.

12.3.6. Construction/Advancement of Public Facilities and Services by Applicant. In order to avoid denial, deferral of development or conditional approval requiring the phasing of development, 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 that the impact of the development will occur, consistent with the requirements of this chapter. A commitment for construction or advancement of public facilities and services must be memorialized in a development agreement and included as a condition of a development approval.

12.3.6.1. Limitation. No advancement of capacity for public facilities or services that is needed to avoid deterioration in the adopted LOS shall be accepted unless:

1. Adequate public services are available and, if not immediately available, are to be provided by the applicant or through the appropriate self-funding apparatus (e.g. a public improvement district);

2. A proposed public facility or service is a prioritized and funded capital improvement as shown in the adopted CIP or the applicant commits to advancing the facilities or services;

3. Adequate security has been provided to assure that the public facilities or services are provided;

4. A commitment to advance the public facilities or services has been documented in a 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.

12.3.6.2. Development Agreement Requirements. Advancement of capacity for public facilities and services may be accepted in a development agreement so long as a commitment for construction or advancement of public facilities and services is included as a condition of the development permit and in the development agreement. The commitment shall contain, at a minimum, the following:

1. For planned capital improvements or services, either a finding that the planned capital improvement or service is included within the CIP for the year in which construction of the project is scheduled or the applicant commits to constructing/advancing the facilities and services at such time;

2. An estimate of the total financial resources needed to construct or expand the proposed public facilities and services, and a description of the incremental cost involved;

3. A schedule for commencement and completion of construction or expansion of the planned capital improvement and service with specific target dates for multiphase or large-scale capital improvements projects;

4. A finding that the planned capital improvement and service is consistent with the design and improvement standards of the SLDC or any other ordinance, statute or regulation relating to the construction and design of the public facility and service; and

5. If the planned capital improvement and public service proffered by the applicant provides capacity exceeding the demand generated by the proposed project, but is needed to meet past deficiencies reflected in the lack of overall capacity needed for APF for the project, reimbursement to the applicant for the *pro rata* cost of the excess capacity for the year in which the capital facility or service would have been built as shown in the prioritized CIP from any development fee funds paid by subsequent development projects.

12.3.6.3. Partial Construction or Funding. The construction or funding of only a portion of a public facility or service needed may be approved, so long as:

1. The public facility or service will provide the capacity needed to meet the adopted LOS for the applied-for project and will be fully usable and operational; and

2. Funding for the construction or funding of the balance of the public facility or service is identified and the future expenditure is committed to in a development agreement.

12.3.7. Financing of Adequate Public Services. The applicant for a development project shall provide for annual funding for a period of twenty years of all fire, law enforcement and emergency response services and county road maintenance and repair, the need for which is generated by the development project by: advancing the costs of providing such facilities and services; through the creation of a public improvement district or a county improvement district; and/or a county road maintenance assessment. Such annual funding shall be provided for in the development agreement. If additional development projects are approved within a public improvement district or county assessment district, the annual funding contribution shall be apportioned among all projects so approved. If additional development projects are approved that are located outside of a public improvement district or county improvement district, the district shall be expanded to include the development projects, if legally feasible and subject to the approval of the property owners or residents in the district pursuant to law and the annual funding contribution shall be apportioned among all the projects so approved.

12.4. DEVELOPMENT AGREEMENTS.

12.4.1. When Required. This subsection applies to any application for discretionary development approval that requires an AFPA as set forth in Tables 4-1 and 6-1. Any applicant may request a development agreement, even if not required.

12.4.2. Purpose. The purpose for entering into a 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, including but not limited to:

12.4.2.1. resolution of potential legal disputes prior to civil litigation;

12.4.2.2. resolution of pending civil litigation through settlement development agreements;

12.4.2.3. vesting;

12.4.2.4. land uses;

12.4.2.5. development planning;

12.4.2.6. green development design and improvement standards;

12.4.2.7. conditions and mitigation requirements;

12.4.2.8. financing mechanisms, including dedication, development fees, public and private utility rates, charges and fees, dedication of land for public schools, creation of assessment and public improvement districts for the construction, operation and ongoing service and maintenance of infrastructure and public services;

12.4.2.9. preservation of open space, scenic vistas, trails, and environmentally sensitive lands;

12.4.2.10. use of solar and wind renewable energy systems;

12.4.2.11. provide mechanisms for the financing of all capital facilities and public services; and

12.4.2.12. provide 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.

12.4.3. In General. A development agreement is a contract between the County and an applicant which governs, in a comprehensive way, development of a property. A development agreement provides assurance to the applicant that the proposed development will not be subject to subsequent amendments to the SLDC. A development agreement memorializes agreements concerning public services and facilities to be provided. And, a development agreement includes conditions and mitigation measures that must be met to assure so that the proposed development does not have unacceptable impacts on neighboring properties, infrastructure or services. A development agreement will contain agreements concerning phasing of a project, the timing of public improvements, the applicant's contribution toward funding system-wide community improvements, and other conditions.

12.4.4. Procedure.

12.4.4.1. A development agreement is not a substitute for, nor an alternative to, any other required development approval.

12.4.4.2. In all cases, a draft of a proposed development shall be presented, using the form approved by the County Attorney.

12.4.4.3. A 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.

12.4.4.4. The Board may, in its legislative discretion, authorize the Administrator to enter into a development agreement so long as the approval sought is ministerial, not legislative or quasi-judicial.

12.4.4.5. A development agreement will not take effect until the development agreement is recorded in the office of the County Clerk. A development agreement not recorded in the office of the County Clerk within sixty (60) days after its adoption and execution by all parties shall be void. A copy of the development agreement shall also be filed in the office of the Administrator.

12.4.5. Criteria. The Board may enter into a development agreement pursuant to this section only if it finds that:

12.4.5.1 the 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;

12.4.5.2. the development project to which the development agreement pertains is consistent with the SLDC, the Official Map and the CIP;

12.4.5.3. the applicant has agreed to provide facilities and services in order to meet the adequate public facility and services requirements of the SLDC;

12.4.5.4. the proposed agreement is consistent with the SLDC and the provisions of other County ordinances and regulations and applicable state and federal law;

12.4.5.5. the proposed agreement is enforceable by the County and any third party beneficiary to the 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 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;

12.4.5.6. the proposed agreement is in writing, written on an acceptable form, and includes all of the following terms:

1. the names of all parties to the development agreement;

2. a detailed description of the project which is the subject of the 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 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 development agreement;

8. any other agreed terms concerning enforcement, including but not limited to, a mandatory provision within the development agreement requiring the parties to submit disputes to land use mediation prior to commencement of an administrative enforcement or civil action. Revocation or termination of a development agreement shall be in accordance with the procedures set forth in this chapter, which shall be incorporated into the terms of the development agreement;

9. the phasing of the project and coordination of the provision of adequate public facilities and services with each phase;

10. 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;

11. adequate security for the development of facilities and services for each phase of the development;

12 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;

13. a complete description of any proposed public financing of improvements (PIDs, County Improvement Districts, public bonding, road maintenance districts, etc.);

14. 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;

15. 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;

16. 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

17. 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;

18. 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 must be memorialized in an agreement to be binding.

12.4.6. Force and Effect of Development Agreements.

12.4.6.1. A development agreement entered into and adopted pursuant to this section shall have the force and effect of a duly adopted provision of the SLDC.

12.4.6.2. Unless a 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 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.

12.4.6.3. A development agreement not recorded in the office of the County Clerk within sixty (60) days after its adoption and execution by all parties shall be void.

12.5. PUBLIC IMPROVEMENT DISTRICTS (PIDS).

12.5.1. Purposes. This section is adopted in order to:

12.5.1.1. 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;

12.5.1.2. 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;

12.5.1.3. 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;

12.5.1.4. 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

12.5.1.5. 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;

.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.

12.5.2. 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, §5-11-4 NMSA 1978. 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"), so long as that resolution is in effect.

12.5.3. Cumulative Authority and Creation of PIDs.

12.5.3.1. Cumulative Authority. This section is adopted pursuant to the authority of the Public Improvement District Act, §5-11-1 NMSA 1978, 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.

12.5.3.2. Resolution Declaring Intention to Form District. On presentation of a petition signed by the owners of at least twenty-five percent 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 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 includes a map depicting the boundaries 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 §5-11-1 NMSA 1978;

9. That the PID will be governed by the Board;

10. The resolution may direct 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 §5-11-1 NMSA 1978, be prepared by the applicant, or by the Administrator, for consideration by the Board at its hearing on formation of the PID. The study shall substantially comply with the

requirements of § 5-11-16 NMSA 1978. The PID may require that the persons petitioning for formation of the PID deposit 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 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 §5-11-4 NMSA 1978;

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.

12.5.4. 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.

12.5.5. 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 the implementation of the PID general plan, the SGMP, 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.

12.5.6. Formation, Amendment and Dissolution of a PID.

12.5.6.1. Formation. A PID shall be formed in compliance with applicable state statute.

12.5.6.2. 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.

12.5.6.3. 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.

12.5.6.4. 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 §5-11-6 and §5-11-7 NMSA 1978, 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 §5-11-6 NMSA 1978, shall not be deleted from the district while there are bonds outstanding that are payable by such taxes, special levies or charges.

12.5.7. Perpetual Succession. All PIDs shall have perpetual existence until terminated pursuant to NMSA 1978 § 5-11-24 of the Public Improvement District Act.

12.5.8. Dissolution of a PID. A PID shall be dissolved by the Board by upon a determination that each of the following conditions exist:

12.5.8.1. All improvements owned by the PID have been, or provision has been made for all improvements to be, conveyed to the municipality or county in which the PID is located;

12.5.8.2. All obligations of the PID pursuant to any development agreement with the County have been satisfied; and

12.5.8.3. 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 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.

12.5.9. 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 as required. 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.

12.5.10. 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 consist of any of the following:

12.5.10.1. drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

12.5.10.2. 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;

12.5.10.3. highways, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

12.5.10.4. trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, ingress, egress and parking;

12.5.10.5. pedestrian malls, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

12.5.10.6. landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems;

12.5.10.7. public buildings, public safety facilities, fire protection, emergency response and law enforcement facilities;

12.5.10.8. electrical generation, transmission and distribution facilities;

12.5.10.9. natural gas distribution;

12.5.10.10. lighting systems;

12.5.10.11. cable or other telecommunications lines and related equipment;

12.5.10.12. traffic control systems and devices, including signals, controls, markings and signage;

12.5.10.13. 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;

12.5.10.14. library and other public educational or cultural facilities;

12.5.10.15. equipment, vehicles, furnishings and other personalty related to the items listed in this subsection; and

12.5.10.16. inspection, construction management and program management costs.

12.5.11. Powers. In addition to the powers otherwise granted to a PID pursuant to the Public Improvement District Act §5-11-1 NMSA 1978, the Board, in implementing the general plan of the PID, the SGMP, any area plan, community plan and the SLDC may:

12.5.11.1. enter into contracts and expend money for any public infrastructure purpose with respect to the PID**;**

12.5.11.2. enter into development agreements with municipalities, counties or other local government entities in connection with property located within the boundaries of the PID;

12.5.11.3. enter into intergovernmental agreements as provided in the Joint Powers Agreements Act §5-11-1 to 5-11-7 NMSA 1978 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;

12.5.11.4. 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;

12.5.11.5. reimburse the County for providing enhanced services in the PID;

12.5.11.6. operate, maintain and repair public infrastructure;

12.5.11.7. establish, impose and collect special levies for the purposes of funding public infrastructure improvements or enhanced services;

12.5.11.8. employ staff, legal counsel and consultants;

12.5.11.9. reimburse the County for staff and consultant services and support facilities supplied by the County;

12.5.11.10. accept gifts or grants and incur and repay loans for any public infrastructure purpose;

12.5.11.11. 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;

12.5.11.12. 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;

12.5.11.13. pay the financial, legal and administrative costs of the PID;

12.5.11.14. 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;

12.5.11.15. 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

12.5.11.16. 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.

12.5.12. Other Requirements.

12.5.12.1. 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.

12.5.12.2. Reimbursement. An agreement pursuant to §12.5.11.11 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.

12.5.12.3. Summary Participation. The County, by resolution, pursuant to § 5-11-14, NMSA 1978, may summarily provide public services to, or participate in the costs of

public infrastructure.

12.5.13. 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.

12.5.14. Statutory Bond, Notice, Hearing, Election and Debt Limitation Requirements.

12.5.14.1. 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 §§5-11-19 to 5-11-22 NMSA 1978 shall apply.

12.5.14.2. With regard to imposition of property taxes for the operation and maintenance expense of the PID, the provisions of §§5-11-23 NMSA 1978 shall apply.

12.5.14.3. With regard to notice and hearing, the requirements of §§5-11-4 to 5-11-5 NMSA 1978 shall apply.

12.5.14.4. With regard to notice and election, the requirements of §§ 5-11-6 to 5-11-7 NMSA 1978 shall apply.

12.5.14.5. With regard to debt limitations, the requirements of § 5-11-8 NMSA 1978 shall apply.

12.5.15. Feasibility Study. Before constructing or acquiring any public infrastructure, the Board shall 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.

12.5.16. 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:

12.5.16.1. proceeds received from the sale of bonds of the PID;

12.5.16.2. money of the County contributed to the PID;

12.5.16.3. annual property taxes or special levies;

12.5.16.4. state or federal taxes, grants or contributions;

12.5.16.5. developer contributions or advances of public facilities;

12.5.16.6. user, landowner and other fees and charges; and

12.5.16.7. proceeds of loans or advances.

12.6. COUNTY IMPROVEMENT DISTRICTS.

12.6.1. 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.

12.6.2. 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, §§ 4-55A-1 through 4-55A-43 NMSA 1978 (as amended).

12.6.3. Purposes. This section is adopted in order to:

12.6.3.1. 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.

12.6.3.2. 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.

12.6.3.3. 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.

12.6.3.4. 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.

12.6.3.5. 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. 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.

12.6.4. 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:

12.6.4.1. Drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

12.6.4.2. 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;

12.6.4.3. Highways, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

12.6.4.4. Trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, ingress, egress and parking;

12.6.4.5. Pedestrian malls, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

12.6.4.6. Landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems;

12.6.4.7. Public buildings, public safety facilities, fire protection, emergency response and law enforcement facilities;

12.6.4.8. Electrical generation, transmission and distribution facilities;

12.6.4.9. Natural gas distribution;

12.6.4.10. Lighting systems;

12.6.4.11. Cable or other telecommunications lines and related equipment;

12.6.4.12. Traffic control systems and devices, including signals, controls, markings and signage;

12.6.4.13. 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;

12.6.4.14. Library and other public educational or cultural facilities;

12.6.4.15. equipment, vehicles, furnishings and other personalty related to the items listed in this subsection; and

12.6.4.16. inspection, construction management and program management costs.

12.6.4. Cumulative Authority and Creation of a County Improvement District.

12.6.4.1. Cumulative Authority. This section is adopted pursuant to the authority of the a County Improvement District pursuant to 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 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. The issuance of bonds by issued pursuant to the County Improvement District Act and this section need not comply with the requirements of any other law applicable to the issuance of bonds, except the Public Securities Limitation of Action Act, NMSA 1978, §6-14-4, which shall apply.

12.6.4.2. 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 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 be assigned to the district. If accepted by the Board of County Commissioners, a resolution is adopted creating the district.

12.6.4.3. Governing Authority. A County Improvement District shall be governed by the Board of County Commissioners.

12.6.4.4. 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 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 30 days of received written notice of the adoption of a provisional order.

12.6.4.5. Duration of the District. A County Improvement District shall persist until the project or projects for which the district was created are completed.

12.6.4.6. 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 advance the cost of the capital improvements and then 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.

12.6.4.7. 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) to 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.

12.7. COUNTY ROAD MAINTENANCE ASSESSMENT.

12.7.1. 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 a fee representing the cost of maintenance.

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 NMSA 1978, §67-4-20 through §67-4-24.

12.7.3. Purposes. This section is adopted in order to:

12.7.3.1. 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.

12.7.3.2. 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.

2. Authorize the following activities deemed essential to implement the purposes set forth above:

3. Repairing or maintaining a public road, bridge, walkway, overpass, underpass, alley, curb, gutter or sidewalk;

4. Repairing or maintaining a storm sewer project, sanitary sewer project or

water project associated with a County road;

5. Constructing, acquiring, repairing or maintaining a flood control or storm drainage project;

12.7.4. Cumulative Authority and Creation of a County Road Maintenance Assessment.

12.7.4.1. 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.

12.7.4.2. 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.

12.7.4.3. Governing Authority. A County Road Maintenance Assessment is governed by the Board of County Commissioners.

12.7.4.4. 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 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.

12.7.4.5. 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.

12.8. GENERAL OBLIGATION BONDS.

12.8.1. 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.

12.8.2. 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 §4-49-1 through §4-49-21 NMSA 1978 (as amended).

12.8.3. Cumulative Authority for Issuance of a General Obligation Bond.

12.8.3.1. 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.

12.8.3.2. 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 must 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.

12.8.3.3. Limitation. A County General Obligation Bond may not be used for any item 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.

12.8.3.4. Issuing Authority. A County General Obligation Bond is issued by the Board of County Commissioners after approval by the voters.

12.8.3.5. 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). 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.

12.9. REVENUE BONDS.

12.9.1. 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:

12.9.1.1. Public buildings;

12.9.1.2. Public parking lots, structures or facilities;

12.9.1.3. Firefighting equipment;

12.9.1.4. Storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants, water utilities or other water, wastewater or related facilities, water rights;

12.9.1.5. Alleys, roads or bridges;

12.9.1.6. Airport facilities;

12.9.1.7. Open space;

12.9.1.8. Public parks, public recreational buildings or other public recreational facilities;

12.9.1.9. Solid waste disposal equipment, equipment for operation and maintenance of sanitary landfills, sanitary landfills, solid waste facilities; or

12.9.1.10. Public transit systems or any regional transit systems or facilities.

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 § 4-62-1 NMSA 1978, et. seq.

12.9.3. Creation of a County Revenue Bond.

12.9.3.1. Limitation. A County General Obligation 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.

12.9.3.2. 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, voters.

12.9.3.3. Financial Terms of County Revenue Bonds. Like general obligation bonds, revenue bonds that are secured and repaid from tax revenue are repaid on 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.

12.9.3.4. Special Terms Applicable to Revenue Bonds Whose Repayment is Not Pledged Against Income from a Gross Receipts Tax. A non-utility revenue producing project must 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.

12.9.4. Repayment. A revenue bond is repaid and secured from the 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 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.

12.10. COUNTY HIGHWAY AND BRIDGE BOND.

12.10.1. 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.

12.10.2. 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 or 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.

12.10.3. Limitation. The County is authorized to issue bonds for the construction and repair or 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.

12.10.4. 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 must 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 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.

12.11. DEVELOPMENT FEES.

12.11.1. Authority. The County is authorized to impose development fees under the Development Fees Act (NMSA 1978, § 5-8-1 *et seq*.). This section fixes, imposes and provides for the assessment and collection of development fees to finance, in whole or in part, the capital costs of additional or expanded public facilities identified on the County's capital improvement plan ("CIP"), in order to meet the needs generated by new construction or development ("new development") pursuant to the Development Fees Act, NMSA 1978 § 5-8-1 *et seq*.

12.11.2. 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 to so comply. The intent of this subsection is to promote the health, safety, and general welfare of the residents of the County by:

12.11.2.1. Assessing and collecting development fees for financing new capital facilities in an amount based upon appropriate service units, the demand for which is generated by new residential and non-residential growth and new development in the County. The purpose of this section is to ensure, in part, the provision of adequate levels of service for capital facilities throughout the unincorporated areas of the County so that new development shall be consistent with the adequate public facilities provisions of the SGMP and the SLDC. The Board intends to require new development to bear an amount not to exceed its roughly proportionate share of the costs related to the additional capital facilities the need for which is reasonably generated by such new development. 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, including excess capacity of existing infrastructure, the need for which is generated by new development, and which benefit those developments which pay the fees;

12.11.2.2. 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;

12.11.2.3. Requiring all new residential and non-residential development to pay the development fees assessed under this subsection and to contribute a fair and proportionate share towards the costs of capital improvements, the need for which is reasonably necessitated and generated by such new development;

12.11.2.4. 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 generated by new development in a proportional, safe and timely manner;

12.11.2.5. Ensuring that new 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 generated by such new development;

12.11.2.6. Implementing the SGMP and the CIP by ensuring that adequate public facilities are available in a timely and well-planned manner; that the County has a positive fiscal balance with respect to the provision and servicing of public facilities; and, that public facilities, the need for which is generated by new development, meet the sustainable design and improvement standards of Chapter 7; and

12.11.2.7. Applying the legal standards and criteria of the Development Fees Act, NMSA 1978, § 5-8-1 et seq.

12.11.3. Applicability. This section shall be applicable to all new development within the unincorporated jurisdiction of the County, as may be amended in the future, and shall apply uniformly within each service area. The current development fee ordinance adopting fees for fire and emergency response facilities and equipment shall not apply to new development approvals occurring after the date of adoption of the SLDC. New fire and emergency response development fees are adopted herein for new development approvals occurring after the date of adoption of the SLDC as authorized in this section.

12.11.4. 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, and to comply with 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.

12.11.5. Legislative Findings, Conclusions and Determinations. The Board hereby finds and

determines that:

12.11.5.1. The County has engaged qualified professionals to prepare the CIP by service area and countywide, as required in NMSA 1978 § 5-8-6, pursuant to previously approved land use assumptions incorporated in the adopted SGMP and the CIP needed to calculate the various development fees. The CIP and the development fees are hereby found and determined to be consistent with the adopted land use assumptions and follows the infrastructure capital improvement planning guidelines established by the New Mexico department of finance and administration and the following findings and determinations are hereby made:

1. Descriptions, reasonably supporting the various development fees, have been prepared in reports prepared by the qualified professionals of the existing capital improvements within each service area, of the total capacity, the level of current usage and commitments for usage of capacity of the existing capital improvements by service area, and the costs to upgrade, update, improve, expand or replace the described capital improvements to adequately meet existing and ongoing needs generated by new development and all usage, safety, efficiency, environmental or regulatory standards; and

2. Reports and analyses have been prepared by the qualified professionals, establishing that new development causes and imposes increased demands on public facilities.

12.11.5.2. The Board has appointed an advisory committee, pursuant to NMSA 1978, § 5-8-37, to review land use assumptions (LUA), and the capital improvement plan (CIP), and the advisory committee has recommended the adoption of the land use assumptions and the CIP; and the land use assumptions, incorporated in this section by reference, demonstrate that new development will continue to place increasing demands on the County to provide public capital facility improvements. The advisory committee shall be a standing committee established pursuant to NMSA 1978, § 5-8-37. The advisory committee shall meet at the direction of the Board. The functions of the advisory committee shall include:

1. Advise and assist the County in adopting land use assumptions;

2. Review the CIP and file written comments;

3. Monitor and evaluate implementation of the CIP;

4. File 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. Advise 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.

12.11.5.3. Land Use Assumptions.

1. The land use assumptions provide a projection of changes in land uses densities, intensities and population within planning information areas over at least a five-year period. The Board hereby incorporates by reference the land use

assumptions set forth in the SGMP, as amended. The land use assumptions shall be reviewed and updated, if necessary, in conjunction with the update of the CIP.

2. The Board hereby finds and determines that appropriate descriptions have been inserted into the reports prepared by the qualified professionals of all of the capital improvements or facility expansions and their estimated costs necessitated by and attributable to new development in each service area based on the approved land use assumptions.

3. The Board hereby determines that:

a. The County shall update the land use assumptions and CIP at least every two years. The initial two-year period begins on the day the CIP is adopted;

b. The County shall review and evaluate its current land use assumptions and shall cause an update of the capital improvement plan to be prepared in accordance with the Development Fees Act, NMSA 1978, § 5-8-1;

c. The advisory committee shall file its written comments with the Board on the proposed amendments to the land use assumptions, CIP or development fees before the fifth business day before the date of the public hearing on the amendments;

d. The Board within thirty (30) days after the date of the public hearing on the amendments, shall approve, disapprove, revise or modify the amendments to the land use assumptions, the capital improvement plan or development fees; and

e. A resolution approving the amendments to the land use assumptions, CIP or development fees shall not be adopted as an emergency measure.

12.11.5.4. Definitive Tables. The Board hereby finds and determines that appropriate and reasonable definitive tables have been established in the reports prepared by the qualifying 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;

12.11.5.5. Projected Service Units. The Board hereby finds and determines that the reports prepared by the qualifying 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;

12.11.5.6. 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.

12.11.5.7. Development Fee Report. The Board has carefully considered the 68 page Report dated September 27, 2010 prepared by James C. Nicholas, PhD, Draft 2, for the

County of Santa Fe titled "Development Fees for Santa Fe" and further finds and determines that the Report sets forth appropriate, reasonable and equitable methodologies and assumptions consistent with the New Mexico Development Fees Act for the formulation and imposition of a Capital Facilities Development Fee Program for the County of Santa Fe, and provides the basis for adoption of this subsection.

12.11.5.8. 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 generated by new development in accordance with applicable law will be paid by development fees. Development fees shall not exceed the cost to pay 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 which benefit those developments which pay the fees.

12.11.5.9. Additional Costs. The Board hereby finds and determines that development fees shall also be used to defer the following costs:

1. The estimated costs and professional fees paid for preparing and updating the Capital Improvement Plan (CIP);

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

3. The administrative costs associated with this ordinance for County employees who are qualified professionals. Such administrative costs shall not exceed three percent of the total development fees collected, as provided by § 5-8-4 NMSA 1978.

12.11.5.10. Capital Improvement Plan. The Board hereby finds and determines that:

1. The capital improvement plan (CIP) appropriately and reasonably lists the growth-supporting projects that shall 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;

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

3. The CIP shall be updated every two years from the effective date of the SLDC. Updates of the land use assumptions shall occur at least every two years from the effective date of this ordinance. Appropriate revisions and amendments to the development fees schedules and this ordinance shall be made following either form of update, if necessary.

12.11.5.11. Establishment of Service Areas. The Board hereby finds and determines that service areas for the development fees are established as follows:

1. Roadways. The Road Maintenance Districts established by the Board are the service areas for roadways.

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.

3. Law Enforcement. The entire unincorporated area of the County shall be the service area for law enforcement.

4. Fire and Rescue. The combined areas of the Santa Fe County fire districts shall be the service area for fire and rescue services.

5. Parks and Recreation Areas. The unincorporated area of Santa Fe County shall be the service area for county parks.

6. Open Spaces. The entire unincorporated area of Santa Fe County shall be the service area for open spaces.

7. Trails. The entire unincorporated area of Santa Fe County shall be the service area for trails.

8. Trailheads. The entire unincorporated area of Santa Fe County shall be service area for trailheads.

12.11.5.12. Public Interest. 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 created by the new development.

1. 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 generated by the new development in accordance with applicable law;

2. 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 has generated, and deems it advisable to adopt this subsection as set forth;

3. 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;

4. 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 has been generated by new development;

5. The Board further finds and declares that this subsection is consistent with the procedural and substantive requirements of the New Mexico Development Fees Act (NMSA 1978, §5-8-1 et seq.); and

6. The Board further finds and declares that new development shall be presumed to have maximum development on the necessary public capital facilities at the level of service established by this ordinance.

12.11.6. Items Payable and Not Payable by Development Fee.

12.11.6.1. Payable. Development fees, pursuant to this section, shall be imposed upon all new residential and non-residential development to cover 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 generated by such development. New development shall pay an amount not to exceed its proportionate share of the capital costs related to the additional capital facilities needed to accommodate that new development.

12.11.6.2. Not Payable. Development fees, pursuant to this subsection, shall not be assessed, collected 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;

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 the Development Fees Act. §5-8-2 NMSA 1978.

12.11.6.3. Funding and Curing Deficiencies. The funding and provision of capital facilities necessary to cure any deficiencies that may exist in already developed areas of the County and such facilities shall be provided by the County using independent funding sources allocated for such facilities, other than development fees, including, but not limited to, state, federal funds, 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.

12.11.7. Imposition of Development Fees.

12.11.7.1. Any developer engaging in new development after the effective date of adoption of the SLDC shall pay development fees in the manner and in the amounts required in this subsection of the SLDC, unless otherwise specified in this section. No development permit shall be issued for development under the jurisdiction of Santa Fe County unless the development fees are assessed and collected pursuant to this section.

12.11.7.2. Payment of development fees specified in this section shall constitute full and complete payment of the project's proportionate share of off-site system improvements for which such development fee was paid and shall constitute compliance with the requirements of this section.

12.11.7.3. Nothing in the SLDC shall prevent the County from requiring a developer to construct reasonable system improvements necessitated by and attributable to the new development as a condition of development approval or pursuant to a development agreement with the County, provided that services are not available from existing facilities with actual capacity to serve the new development. If the system improvement is on the CIP, the County shall grant applicable credits to the developer for constructing such system improvements.

12.11.7.4. The capital facilities development fees as set forth in the Fee Schedule approved by the Board are incorporated herein by reference, are hereby imposed upon all new development in the unincorporated area of the County.

12.11.8. Calculation, Assessment and Collection of Development Fees.

12.11.8.1. Assessments of development fees shall be in writing and shall be made at the time that the first discretionary development approval for new development is granted by development order, and payment of a development fee shall occur on or prior to the date of issuance of a development permit. The assessment shall be valid for a period of four years from the date of development approval or issuance of a development permit, whichever date is earlier. If a lot, parcel or tract is located within property that has been exempted from subdivision plat approval by statute, the development fees shall be assessed at the time of approval of a site development plan or development permit.

12.11.8.2. For land that is subdivided or received final development approval on or after 1993, the effective date of the Development Fees Act, the County shall assess the development fees at the time of recording of the final subdivision plat or final site plan approval and this assessment shall be valid for a period of four years from the date of recording. For land that has been subdivided or received approval prior to 1993, the County shall assess the development fees at the time of the first discretionary development approval, if any, after the date of adoption of the SLDC or issuance of a development permit, whichever date is earlier.

12.11.8.3. After the expiration of the four-year period described in § 12.11.8.1 and § 12.11.8.2, the County shall adjust the assessed development fee to the level of 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.

12.11.8.4. After assessment of the development fees attributable to new development, or following execution of a development agreement for payment of development fees pursuant to §12.3, 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.

12.11.8.5. Collection of the development fees shall pay for capital improvements or

facilities expansion that have been identified in the CIP and the County commits to complete construction within seven years and to have the service available within a reasonable period of time after completion of construction considering the type of capital improvement or facility expansion to be constructed but in no event longer than seven years.

12.11.8.6. The County and the applicant shall enter into a development agreement that provides in the case if capital improvements or facility expansions are advanced, constructed, or financed, 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 development at the time such other discretionary development approvals are recorded or development fees are paid by the other development, whichever is earliest.

12.11.8.7. 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 years from commencement of construction of the capital improvements or facility expansion for which development fees have been collected. This section shall constitute the required statutory 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.

12.11.8.8. Calculation of the Development Fees. 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 site plan 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 development 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.

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.

10. 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.

11. The development fees shall be due and payable at the time of issuance of a development permit.

12.11.9. Credits and Refunds.

12.11.9.1. Credits. The County shall grant a credit against development fees imposed pursuant to the SLDC, as follows:

1. Credits shall be granted only for the value of any construction of improvements or contribution or dedication of land, easements or money for system improvements listed on the CIP, made by a developer or his predecessor in title or interest as a condition of development approval or pursuant to a development agreement with the County, or for payments made or to be made pursuant to the terms of any public or private utility, public improvement district (PID), development agreement, or other program by which off-site system improvements are paid or constructed, as long as the projects are listed on the CIP;

2. Credits shall only be granted for system improvements listed on the CIP for the same category of system improvements and within the same service areas for which development fees are imposed pursuant to this subsection;

3. 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:

a. The construction of the creditable improvement is complete and accepted by the County;

b. A suitable maintenance and warranty bond or letter of credit is received and approved by the County; and

c. Design, construction, testing, bonding and acceptance procedures are verified by the County to be in strict compliance with the current County standards as shown by a certificate of completion and acceptance issued by the Administrator.

4. 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. The value of such system improvements for computing credits shall be their estimated completion cost, based on documentation acceptable to the County.

5. Credits shall not be granted for:

a. System improvements that fail to meet applicable County standards;

b. Project improvements;

c. The construction of on-site facilities required by zoning, subdivision, or other County regulation intended to serve the development;

d. System improvements made 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 project improvements for a development project.

6. 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 capital 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 must 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.

7. 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.

b. Credits created pursuant to a development agreement shall be applied for no later than the time specified in the 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 **t**he 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; (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 development fees 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. In lieu of the appraisals referred to in this subsection, the Administrator may accept 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.

j. 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.

k. 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.

l. 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 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.

12.11.9.2. Refunds.

1. Upon completion of the capital improvements or facility expansions identified in the CIP, the County shall recalculate the development fee using the actual costs of the capital improvements or facility expansion. If the development fee calculated based on actual costs is less than the development 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 § 56-8-3 NMSA 1978.

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.

12.11.10. Use of and Administration of the Development Fees Collected.

12.11.10.1. 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 clearly identifying the new development owner and the category of capital improvements or facility expansions within the various service areas, or countywide for which the fees were collected. The County shall be entitled to retain up to three 3% percent 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, revenue certificates and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law in furtherance of the provision of capital improvement projects. Funds pledged toward retirement of bonds, revenue certificates or other obligations of indebtedness for such projects may include development fees and other County revenues as may be allocated by the Board.

12.11.10.2. 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.

12.11.10.3. 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.

12.11.10.4. 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.

12.11.10.5. 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.

12.11.10.6. The funds collected pursuant to this ordinance shall be used solely 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.

12.11.10.7. The Administrator shall establish and maintain accurate financial records for the development fees collected which shall clearly identify for each development fee payment, the payor 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.

12.11.10.8. The Administrator shall prepare and present to the Planning Commission and the Board an annual report describing the amount of any development fees collected, encumbered and used during the preceding year by category of capital improvement and service area.

12.11.10.9. The records of the accounts and annual reports shall be available for public inspection and copying at the County during ordinary County business hours.

12.11.11. Exemptions.

12.11.11.1. 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 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.

12.11.11.2. 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.

12.11.11.3. 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.

12.11.11.4. The County may adopt administrative procedures and guidelines to implement exemptions granted pursuant to this section.

12.11.12. Independent Fee Determinations. An independent determination of development fees may be made as follows:

12.11.12.1. 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.

12.11.12.2. 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 process requirements reached at the pre-application meeting regarding methodology, required forms or documentation, or procedures shall be placed 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 shall file with the Administrator a written acknowledgement receipt and acceptance of the memorandum within the thirty (30) day period.

12.11.12.3. All independent fee studies shall be prepared for review and submitted to the Administrator no later than the time of application for the discretionary development approval. Any submission not so made shall be deemed waived.

12.11.12.4. 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.

12.11.12.5. Each independent fee study shall comply with all other written specifications as may be required by the Administrator from time to time.

12.11.12.6. The Administrator shall determine the appropriate development fees based on the results of the independent fee study and the applicable development fee schedule.

12.11.12.7. 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 must 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.

12.11.13. Administrative Appeals.

12.11.13.1. An applicant who chooses to appeal the assessment or calculation of development fees; determination of exemptions, credits, excess credits; or other decision of the development fees administrator shall submit a written notice of appeal and payment of a nonrefundable processing fee, in an amount set forth by resolution of the Board, to the Administrator within thirty (30) days following the date of the decision or determination of the development fees administrator giving rise to the appeal. The County or any other interested party with standing may also appeal.

12.11.13.2. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the County Attorney, in an amount equal to the development fee assessed, the Administrator shall issue the development permit.

12.11.13.3. The filing of a notice of appeal shall not stay the collection of the development fee unless a bond or other sufficient surety has been filed. If no bond or other sufficient surety is furnished with the notice of appeal, the Administrator shall not issue any development permits for the project.

12.11.13.4. Appeals shall be considered by the Planning Commission. Upon hearing such appeals, the Planning Commission may affirm, change or modify the decision of the Administrator or, in lieu thereof, make such other or additional determination as it deems proper. The decision of the Planning Commission upon the appeal shall be in writing, with detailed written findings and conclusions, which shall forthwith transmit a copy of the decision to the applicant and to the Administrator. A further appeal may be taken by the applicant, the County or any other interested party with standing, to the Board. The decision of the Board upon the appeal shall be in writing, with detailed written findings and conclusions, which shall forthwith transmit a certified copy of the decision, return receipt request, to the applicant and to the Administrator.

12.11.13.5. 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.

12.11.14. Effect of Development Fee on Zoning and Subdivision Regulations.

12.11.14.1. 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.

12.11.14.2. The assessment of a 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.

12.11.15. Annual 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 two (2) years from the effective date of adoption of the SLDC. The Advisory Committee and 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 Development Fees Act.

12.12. OFFICIAL MAP.

12.12.1. 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.

12.12.2. The Official Map shall be conclusive with respect to the location, width and extent of public roads and highways, storm water and drainage basins and ways, floodway control basins or areas, parks, trails and recreation areas, whether or not such roads, highways, storm water and drainage basins and ways, floodway control basins and areas, 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, storm water and drainage basins, floodway control basins and areas, parks, trails and recreation areas in the manner provided in this subsection.

12.12.3. The County shall not amend the layout, widening, changing the course of any public road, or the widening or changing the course of any public drainage way or changing the boundaries of a flood control basin or area, park, trail, recreation area and scenic vista except by amendment of the Official Map.

12.12.4. 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, storm water and drainage way, flood control basin or area, parks, 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.

12.12.5. Whenever an application for development approval is denied or conditionally approved, pursuant to the provisions of Chapter 4, the owner or applicant may file an application for beneficial use determination under the provisions of Chapter 4 on the basis that one or more tracts, parcels or lots of land, upon which is located the bed of such a public mapped road, highway, storm water and drainage way, flood control basin or area, park, trail or recreation area has deprived the owner or applicant of any use or return taking into account the entirety of the

land held in common ownership. Any relief granted under the BUD procedures shall as little as practicable increase the cost of any change of the Official Map, and the Hearing Officer shall recommend, and the Board shall impose reasonable requirements as a condition of granting the BUD so as to promote the health, safety and general welfare of the public.

12.12.6. 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.

12.12.7. The Planning Commission shall review, update and propose Amendments to the Official Map, to be adopted by the Board 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, storm water and drainage way, flood control basin or area, parks, trail, recreation area and scenic vista shown 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 date of recordation.

12.13. TRANSFER OR PURCHASE OF DEVELOPMENT RIGHTS.

12.13.1. Purpose. The purposes of this section are to:

12.13.1.1. authorize an applicant or owner of any estate or interest in property to obtain a development order granting TDR or PDR 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 or PDRs;

12.13.1.2. conserve, preserve and protect environmentally sensitive lands and lands or structures of cultural, architectural, and historic significance;

12.13.1.3. 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;

12.13.1.4. provide a mechanism whereby development rights may be reliably transferred; and

12.13.1.5. authorize donations of development rights to the County or the TDR Bank.

12.13.2. TDRs or PDRs.

12.13.2.1. 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.

12.13.2.2. 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 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 the certificate shall have a copy of the deed

attached.

12.13.2.3. 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.

12.13.2.4. Application. A TDR or PDR is granted through the BUD process and an application for a BUD is an application for the TDR or PDR.

12.13.2.5. Application to DCIs. Owners or lessees of property applying for an overlay zoning district classification for a development of countywide development (DCI) shall only be authorized to transfer or sell development rights to another approved DCI.

12.13.3. Receiving or Sending Properties.

12.13.3.1. No property shall be designated as a receiving or sending property for a TDR or PDR from or to a DCI, unless the Board has concurrently granted to both the sending and such receiving properties by development order.

12.13.3.2. 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.

12.13.3.3. 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.

12.13.3.4. Receiving areas shall be located in approved planned districts. 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 or PDRs.

12.13.4. Notification of the County Assessor. The County shall notify the County Assessor of the transfer or purchase of development rights within thirty (30) days of any of the following:

12.13.4.1. the approval a TDR or PDR;

12.13.4.2. the issuance of a certificate for the TDRs and PDRs;

12.13.4.3. purchase of development rights by the County for the County Land Bank;

12.13.4.4. the receipt by the County or the County Land Bank of a donation of development rights; and

12.13.4.5. the sale, lease or conveyance of development rights by the County Land Bank.

The Assessor shall adjust the valuations 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.

12.13.5. Establishment of the County Land Bank.

12.13.5.1. 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.

12.13.5.2. The Administrator shall have the power and authority to negotiate a purchase of development rights, subject to the approval of the Board.

12.13.5.3. The County Land Bank may, for conservation or other purposes, hold indefinitely any development rights it possesses.

12.13.6. Funding, Management. The County Land Bank may receive funds from the proceeds of a voter approved open space bond issue; the general fund of the County, whether through issuance of general obligation bonds or from general fund revenues; the proceeds of the sale of development rights by the TDR 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 Land Bank, supervised by the County Manager, into which fund all receipts shall be deposited and from which payments shall be made.

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 (Reserved).

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 Map 14-1.

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.

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 must 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;

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.

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 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.

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, 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, 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 in lieu of homes 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 housing 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;

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 Projector 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;

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 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. 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.

13.9.5. 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. 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.

13.9.7. 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.

13.9.8. 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.

CHAPTER 14 – INSPECTIONS, PENALTIES AND ENFORCEMENT

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. 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.

14.1.3. 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.

14.2. 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. A certificate of completion is issued by the Administrator; an inspection may be required to ensure compliance with the SLDC.

14.3. VIOLATIONS OF THE SLDC. Any person who participates in, assists, directs, creates or maintains any building, structure or use that is contrary the requirements of the SLDC or the terms or conditions of any development order issued pursuant to the SLDC, shall have committed a violation of the SLDC shall be held responsible for the violation and be subject to administrative, civil or criminal penalties, as well as injunctive relief and other equitable and legal remedies.

14.4. 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, letter or garbage 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.

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 §30-8-1 NMSA 1978, the Board may apply to a court for authority to abate the nuisance.

APPENDIX A – RULES OF INTERPRETATION, DEFINITIONS AND ACRONYMS

PART 1: RULES OF INTERPRETATION.

The following are definitions of specialized terms and phrases used in the Sustainable Land Development Code (SLDC).

1.1. Words, phrases, and terms defined in the SLDC shall be given the meanings set forth in Part 2 below. Words, phrases, and terms not defined shall be given their usual and customary meanings except where the context clearly indicates a different meaning.

1.2. The text shall control captions, titles, and maps.

1.3. The word "shall" is mandatory and not permissive; the word "may" is permissive and not mandatory.

1.4. Words used in the singular include the plural; words used in the plural include the singular. Words used in the present tense include the future tense; words used in the future tense include the present tense.

1.5. Within the SLDC, sections prefaced "purpose" and "findings" are included. Each purpose statement is intended as an official statement of legislative purpose or findings. The "purpose" and "findings" statements are legislatively adopted, together with the formal text of the SLDC. They are intended to be the legal guide to the administration and interpretation of the SLDC and shall be treated in the same manner as other aspects of legislative history, intent, purpose, findings and intent. In interpretation and application, the provisions of this document are considered minimal in nature.

1.6. Whenever the provisions, standards, or requirements of any other applicable chapter or section of the SLDC are greater, or any other County Ordinance more restrictive, the latter shall control.

1.7. In computing any period of time prescribed or allowed by this Appendix, the day of the notice or final application, after which the designated period of time begins to run, is not to be included. Further, the last day is to be included unless it is not a working day, in which event the period runs until the next working day.

PART 2: DEFINITIONS.

Words, terms and phrases in this Section shall be defined as follows:

100-year Floodplain: the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, and the area designated as a Federal Emergency Management Agency Zone A, AE, AH, or AO on the Flood Insurance Rate Maps.

100-year Flood: see Base Flood.

Abut or Abutting: having property lines in common, or meeting at a point.

Access Easement: a designated area on which access to property exists.

Accessory: a use, activity, structure, building, or a part of a structure or building that is subordinate and incidental to the main activity or use of the structure or building.

Accessory Apartment: a second residential unit attached to an existing single family detached dwelling for use as a complete, independent living facility with provision for cooking, eating, sanitation and sleeping.

Accessory Dwelling: an accessory detached dwelling unit or an accessory apartment.

Accessory Structure: a subordinate structure or building customarily incidental to and located on the same lot with the main use or building.

Accessory Use: a use incidental to and customarily associated with a specific principal use located on the same lot, tract or parcel.

Addition: a completely new structure or new component attached to an existing building or structure.

Adequate Public Facilities and Services: See §12.3.

Adjacent: two or more properties, lots, or parcels are "adjacent" where they abut or touch at a point, even if separated by a road right-of-way, railroad line, trail, public lands, arroyo, stream, river, canal, lake, or other body of water.

Administrator: the County official assigned or delegated to perform the functions of the SLDC Administrator by the County Manager.

Adopted Level of Service: see Level of Service, Adopted.

Adult: a person 18 years or older or a person adjudged by the New Mexico District Court to be an emancipated minor.

Adult Arcade: any place to which the public is permitted or invited, wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image—producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting "specified sexual activities" or "specified anatomical areas."

Adult Bookstore, Adult Novelty Store or Adult Video Store: a commercial establishment which has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following: books, magazines, periodicals or other printed matter; or photographs, films, motion pictures, video cassettes, compact discs, DVDs (digital video discs or digital versatile discs), slides, or other visual representations, which are characterized by their emphasis upon the exhibition or display of "specified sexual activities" or "specified anatomical areas;" instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sado-masochistic use or abuse of the user or others.

Adult Cabaret: a nightclub, bar, restaurant, or similar commercial establishment which regularly features: persons who appear semi-nude; live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or films, motion pictures, video cassettes, DVDs (digital video discs or digital versatile discs), slides or other photographic reproductions which are characterized by the exhibition or display of "specified sexual activities" or "specified anatomical areas."

Adult Motel: a hotel, motel, or similar commercial establishment, which: offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, DVDs (digital video discs or digital versatile discs), slides, or other photographic reproductions which are characterized by the exhibition or display of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; and either (a) offers a sleeping room to rent for a period of time that is less than ten (10) hours, or (b) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

Adult Motion Picture Theater: a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, DVDs (digital video discs or digital versatile discs), slides, or similar photographic reproduductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult Theater: a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."

Adverse Impact or Effect: a negative change in the quality of the county, communities, affected areas or adjacent land, resulting from an adverse impact or effect originating from a use of land, buildings or structures upon the enjoyment of property, aesthetic values, environmentally sensitive lands, floodplains, floodways, streams, wetlands, hillsides and steep slopes, wildlife or vegetation habitats and habitat corridors, air and water quality, public facilities and services, transportation capacity, health and safety, historical, architectural, archaeological, or cultural significance of a resource and effecting global warming, overutilization of nonrenewable energy and lack of sustainability.

Advisory Committee: the group of appointed citizens of the County selected by the Board pursuant to the Development Fees Act, §5-8-37 NMSA 1978.

Affordable Housing: housing units that are restricted in accordance with an affordable housing agreement approved by the Board pursuant to Chapter 13.

Affordable Housing Unit: a designated unit of affordable housing.

Agent: a person who represents, or acts for or on behalf of, an owner or developer for the purpose of submitting an application for development approval; or represents an owner in selling, leasing, or developing, or offering to sell, lease, or develop, an interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney at law whose representation of another person consists solely of rendering legal services.

Agricultural: property currently used or suitable for ranching or farming.

Agriculture: Production for commercial purposes of crops or livestock.

Agricultural Operation: the plowing, tilling or preparation of soil at an agricultural facility; the planting, growing, fertilizing or harvesting of crops; the application of pesticides, herbicides, or other chemicals, compounds or substances to crops, weeds or soil in the connection with production of crops, livestock, animals or poultry; the breeding, hatching, raising, producing, feeding, keeping, slaughtering or other fowl normally raised for food, mules, cattle, sheep, goats, rabbits or similar farm animals for commercial purposes; the production and keeping of honey bees, production of honey bee products and honey bee processing facilities; the production, processing or packaging of eggs or egg products; the manufacturing of feed for poultry or livestock; the rotation of crops; commercial agriculture; the application of existing,

changed or new technology, practices, processes or products to an agricultural operation; or the operation of a roadside market.

Agricultural Use: use of land for the production of plants, crops, trees, forest products, orchard crops, forage, grains, fruits, vegetables, ornamental stock, livestock, pasture, poultry, captive deer or elk, or fish for commercial purposes with a reasonable expectation of profit. The term also includes the use of land that meets the requirements for payment or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

Agricultural Zoning: see Ag/Ranch and Rural Zoning Districts.

Airport: an area of land whether of public or private ownership, designed and set aside for the landing and taking off of aircraft, including all contiguous property that is held or used for airport purposes.

Airspace Notification Map:

Alley: a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other road.

Allow: to permit.

Alteration: as applied to a building or structure, a change or rearrangement in the structural parts or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another. As applied to a sign: any change of color, construction, copy, illumination, location, position, shape, face, size or supporting structure of an existing sign.

Ancillary Appurtenances: equipment associated with a wireless communications facility, including, but not limited to, antennas, attaching devices, transmission lines, and all other equipment mounted on or associated with a wireless communications facility. An ancillary appurtenance does not include structure or building enclosing or partially enclosing appurtenances or equipment.

Animated or Moving Sign: see Sign, Animated or Moving.

Annexation: the addition of unincorporated territory of the County to an incorporated city.

Antenna: apparatus designed for the transmitting and/or receiving of electromagnetic waves for telephonic, radio, or television communications. This includes omni-directional (whip) antennas, sectorized (panel) antennas, microwave dish antennas, multi-bay or single bay (frequency modulation and television), yaggie, or parabolic (dish) antennas, but does not include satellite earth stations.

Antenna and Radio Facilities, Amateur: a facility designed solely and specifically for amateur (ham) radio, citizens band radio or other private, non-commercial communications systems.

Antenna Array: more than one antenna. The antenna array does not include the support structure, defined below, or existing vertical infrastructure to which it is attached.

Antenna, Combined: an antenna designed and utilized to provide services by more than one provider.

Antenna, Dish: a parabolic, spherical, or elliptical antenna intended to receive wireless communications.

Antenna, Flush Mounted: an antenna that is attached flush to an antenna supporting structure, without the use of side-arms or other extension devices.

Antenna, Panel: a directional antenna designed to transmit and/or receive signals in a directional pattern that is less than 360 degrees and is not a flush-mounted or dish antenna.

Antenna Structure, Lattice: a steel lattice, self-supporting structure with no guy-wire support, so designed to support fixtures that hold one or more antennas and related equipment for wireless communications transmission.

Antenna Structure, Monopole: a self-supporting, pole-type structure with no guy-wire support, tapering from base to top, and so designed to support fixtures that hold one or more antennas and related equipment for wireless telecommunications transmission.

Antenna, Surface-Mounted: an antenna that is attached to the surface or façade of a building or structure other than an antenna supporting structure.

Antenna Supporting Structure: a vertical projection, including a foundation, designed and primarily used to support one or more antennae or that constitutes an antenna itself. This does not include stealth wireless communications facilities, but does include roof-mounted, antenna supporting structures that extend above the roof lines by more than 20 feet, or that have an overall height of greater than 50 feet. An antenna supporting structure does not include utility equipment.

Antenna Supporting Structure, Broadcast: an antenna supporting structure, including replacements, that contains antennae that transmit signals for radio and television communications.

Antenna Supporting Structure, Replacement: construction of an antenna supporting structure intended to replace an antenna supporting structure in existence at the time of application.

Antenna Supporting Structure, Roof-Mounted: an antenna supporting structure mounted on the roof of a building that extends above the roof line by 20 feet or less and that has an overall height of 50 feet or less.

Antiquated Subdivision. Reserved.

Apartment: see Dwelling, Multifamily.

Appeal: an appeal alleging that there is an error of law or erroneous finding of fact in any development order.

Applicant: the owner of land seeking a development approval for the land and lands in common ownership, including an agent of the owner who shall have express written authority to act on behalf of the owner.

Application: a written request for a development order granting a discretionary or ministerial development approval.

Appropriation: action by the Board to dedicate funding for capital improvement projects.

Appurtenance: an accessory or ancillary building, object, structure, fence, road furniture, fixture, vending machine, fountain, public artwork, or bicycle rack located on the grounds of an historic landmark, in an historic district, on public property, or in the public right-of-way.

Archaeological Features: portable or non-portable remains including but not limited to hearths, storage pits, fire pits, burial places, architecture, or undisturbed layers of deposited materials.

Archaeological Site: a concentration of cultural remains inferred to be the location of specific human activities and which may contain cultural, archaeological, historic or pre-historic structures, ruins, sites or objects and which are of scientific, educational, informational, or economic interest or value.

Architect: a professional architect holding a valid license by the State of New Mexico, or holding a valid registration from another state or country who acts under the direction of a New Mexico licensed architect.

Area of Shallow Flooding: a Federal Emergency Management Agency-designated AO, AH, or VO zone on a community's Flood Insurance Rate Map with a 1% chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: land in the floodplain, or floodway, within a community subject to a 1% or greater chance of flooding in any given year. The area is designated as a Federal Emergency Management Agency Zone A, AE, AH, AO, A1-99, VO, V1-30, VE, or V on the Flood Insurance Rate Maps. See Flood, Flooding, Floodplain, and 100-year Floodplain.

Area Plan: a plan encompassing a specific defined geographic area of the County, which is prepared for the purpose of specifically implementing the General plan by refining the policies of the General plan to a specific geographic area. 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 shall further provide 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.

Arterial: see Road, Major or Minor Arterial.

Artifact: cultural, archaeological or historic remains.

Assessment: a determination of the amount of a development fee; or a rate, fee, charge or assessment by an assessment or public improvement district.

Average Daily Traffic: a projection of daily traffic occasioned by development. See Chapter 6.

Awning: a roof-like cover made of fabric or canvas that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

Awning sign: a sign copy or logo attached to or painted on an awning.

Banner, Flag or Pennant: a cloth, bunting, plastic, paper, or similar non-rigid material used for advertising purposes attached to any structure, staff, pole, line, framing, or vehicle, not including official flags of the United States, the State of New Mexico, and other states of the nation, counties, municipalities, official flags of foreign nations, and nationally or internationally recognized organizations.

Base Flood: a flood having a 1% chance of being equaled or exceeded in any given year (also called "100-year frequency flood").

Base flood elevation: the elevation for which there is a 1% chance in a given year that flood levels will equal or exceed it.

Base Zoning District: see Zoning District, Base.

Basement: an area of a building or structure having its floor subgrade (below ground level) on all sides.

Berm: a mound of earth.

Bicycle Path: a designated paved travel way intended for bicycle use, to the exclusion of motor vehicle use. A bicycle path may be used by two-way bicycle traffic.

Block: a tract of land, frequently consisting of multiple lots, created by a subdivision, site plan, family transfer or parcel division, bounded by highways, roads, roads or by public parks, cemeteries, railroad rights-of-way, bicycle, equestration and pedestrian trails, open space, walls, arroyos, sewer, water, acequia or irrigation ditches, pipes or culverts, streams, waterways, or the boundary lines of an adjacent city or other county.

Block Length: the distance measured along a road between intersecting roads or the distance from the centerline of a road to the most distant property line of the most distant lot served by the road.

Block Width: the distance measured along a road between intersecting roads or the distance from the centerline of the road to the most distant property line of the most distant lot served by the road.

Board: the Board of County Commissioners of Santa Fe County, State of New Mexico.

Bond: a form of surety instrument.

Buildable Area: the portion of land upon which buildings, structures, wells or equipment may be placed, limited by floodplain, slope or other terrain constraints required buffer zones and setbacks.

Building: a structure enclosed designed, built, or occupied for industrial, commercial, residential, public, recreational, community, religious, fraternal or civic use.

Building Footprint: the horizontal area measured within the outside of the exterior walls of the ground floor of the main structure.

Building Site: the lot or portion of a lot that is designated on the development approval application, subdivision plat or site plan, including existing buildings and appurtenant parking.

Business: a lawful commercial or industrial activity licensed to engage in the manufacturing, wholesale or retail purchase, sale, exchange or lease of goods, products or the provision of services, or the training or education of students conducted for compensation or profit.

Cabinet Sign: see Sign, Cabinet.

Caliper: The minimum diameter of a tree measured six inches above the ground for trees up to and including four inches in diameter, and 12 inches above the ground for trees having a larger diameter.

Capacity: the maximum demand that can be accommodated by a public facility or service without exceeding the adopted level of service (LOS) in the SLDC. For roads and highways, "capacity" shall be measured by the maximum number of vehicles that can be accommodated by an intersection or road link, during a specified time period, under prevailing traffic and control conditions at that road's adopted LOS.

Capital Improvement: a public facility with a life expectancy of more than one years, owned and operated by or on behalf of the County, a public or private utility, or a PID, which shall include equipment for the operation, repair, maintenance or improvement of the facility. A capital improvement includes but is not limited to: utility facilities, electrical renewable energy transmission lines, sewer lines and facilities, water lines and facilities, water wells, roads, highways, fire, law enforcement, jails, emergency service response, stormwater management, drainage, liquid material detention, schools, libraries, trails, open space, scenic vistas, parks, or recreation facilities; for purposes of the Development Fees Act, a "capital improvement" means any of the following facilities that have a life expectancy of ten or more years and are owned and operated by or on behalf of the County: water supply, treatment and distribution facilities; wastewater collection and treatment facilities; storm water, drainage and flood control facilities; roadway facilities located within the service area, including roads, bridges, bike and pedestrian trails, bus bays, rights of way, traffic signals, landscaping and any local components of state and federal highways; buildings for fire, law enforcement and correctional facilities, emergency rescue and essential equipment costing Ten Thousand Dollars ($10,000) or more and having a life expectancy of ten years or more; and parks, recreational areas, open space, trails, electrical renewable energy transmission lines and related areas and facilities.

Capital Improvement Plan ("CIP"): the portion of the SLDC that identifies capital improvements for which development fees or any other revenue streams may be used as a funding source. The CIP sets forth, by category and prioritization, those capital improvements and public services and that portion of their costs that are attributable to serving new development or resolving existing infrastructure deficiencies within designated service areas for such public facilities and public services 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.

Car Wash, Automatic: a structure where chairs, conveyors, blowers, steam cleaners, or other mechanical devices are used for the purpose of washing motor vehicles and where the operation is generally performed by an attendant.

Car Wash, Self-Service: a structure where washing, drying, and polishing of vehicles is generally on a self-service basis without the use of chain conveyors, blowers, steam cleaning, or other mechanical devices.

Carrying Capacity: a measure to determine environmental infrastructure or fiscal criteria upon which to ground discretionary development approval. Refers to the extent to which land in its natural or current state can be developed without degrading the environment's infrastructure, level of service, or fiscal impact.

Cemetery: a site containing at least one burial, marked or previously marked, dedicated to and used or intended to be used for the permanent interment of the human dead, including perpetual care and non-perpetual care cemeteries.

Centerline: the center line of a road right-of-way or a stream, river or waterway. If not readily discernible, the centerline shall be determined by the "low flow line" whenever possible; otherwise, it shall be determined by the centerline of the two-year floodplain.

Certificate of Completion/Occupancy: a certificate indicating that the premises comply with a specific provision of the SLDC.

Certify: whenever the SLDC requires that an agency or official certify the existence of some fact or circumstance, such certification shall be made in a written document.

Church: a place of worship, including any church, synagogue, temple, mosque, or other building or facility, primarily engaged in religious worship. The term "church" includes ancillary uses, such as

schools, recreational facilities, day care or child care facilities, kindergartens, dormitories, or other facilities, for temporary or permanent residences.

CIP: see Capital Improvement Plan

Cluster Development: a development or subdivision that concentrates lots and structures on a portion of a parcel so as to allow the remaining land to be used for recreation, open space, agriculture and/or preservation of environmentally sensitive areas.

Code: Santa Fe County Sustainable Land Development Code ("SLDC") and any subsequent amendments.

Collector Road: see Road, Collector.

Co-location (Telecommunications): a situation in which two or more providers place an antenna on a common antenna supporting structure, or the addition or replacement of antennas on an existing structure. Includes combined antennas but does not include roof- or surface-mounted wireless communications facilities, or the placement of any personal wireless service antenna on an amateur radio antenna within a residential district.

Combined Antenna: see Antenna, Combined.

Commercial Sign: see Sign, Commercial.

Common Area: a parcel or parcels of land and/or developed facilities and complementary structures and improvements, including, but not limited to, areas for vehicular and pedestrian access, parks, trails, open space, civic and community buildings, plazas, environmentally sensitive lands and mitigation areas and recreational facilities within the site.

Common Element: the portion of condominium property that lies outside all owners' units and is owned, maintained, and operated by the condominium association.

Common Ownership: ownership by the same person, corporation, business, sole proprietorship, firm, trust, entity, partnership, or unincorporated association, or ownership by different persons, corporations, businesses, sole proprietorships, firms, trusts, partnerships, entities, or unincorporated associations, in which a person, stockholder, partner, associate, beneficiary, trustee, or a member of the family owns an interest in each corporation, business, sole proprietorship, firm, trust, partnership, entity, or unincorporated association that has an interest in the land, buildings or structures.

Community Plan: a plan that guides the extension of the boundaries, platting, development or redevelopment of an historical traditional neighborhood or other community in order to make reasonable use of all land, correlate street patterns, and achieve the best possible land-use relationships. A Community Plan constitutes a part of the SLDC.

Community Water System: a water supply system or community well that is under central or common ownership and/or management that serves five (5) or more dwelling units or commercial units, including a Water and Sanitation District, that use permitted water rights rather than domestic wells licensed by the State Engineer under § 72-12-1 NMSA 1978.

Compatible or Compatibility: characteristics of different uses, activities, or design that allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass, and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access, and parking impacts. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor, and architecture. Compatibility does not mean "the same as;" rather,

compatibility refers to the sensitivity of development proposals in maintaining the character of existing development. The fact that development is not within the same zoning district, or has different area and use characteristics does not make it incompatible.

Complete Application: an application that has been deemed complete by the Administrator.

Comprehensive Plan: see Sustainable Growth Management Plan.

Conditional Use: a use that is permitted upon the acquisition of a Conditional Use Permit in accordance with §4.9.6.

Conditional Use Permit: a quasi-judicial discretionary approval of a Conditional Use.

Conditions of Approval: conditions that must be satisfied in conjunction as a condition of discretionary approval.

Condominium: real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Conservation Easement: a non-possessory, incorporeal, interest of a holder in real property that imposes limitations or affirmative obligations designed to: retain or protect natural, scenic, or open space values of real property or assure its availability for agricultural, forest, recreational, or open space use; protect natural resources; maintain or enhance air or water quality; or preserve the historical, architectural, archeological, or cultural aspects of real property.

Conserve: to protect from loss or harm.

Consolidation Plat: see Plat, Consolidation.

Construction: the act of adding an addition to an existing building or structure; the erection of a new principal or accessory building or structure on a lot or property; the addition of walks, driveways, or parking lots; or the addition of appurtenances to a building or structure. Also includes grading, excavation or construction of roads.

Construction Industries Division: Construction Industries Division of the State of New Mexico.

Construction Plan: the maps or drawings accompanying a subdivision plat or site plan showing the specific location and design of improvements to be installed.

Contiguous: lots, tracts or parcels are contiguous when at least one boundary line of one property touches a boundary line or lines of another property. Contiguity includes touching at a point.

Contractor: a person doing work for his own or another's property, whether or not within the building trades or construction professions, or licensed or unlicensed.

Copy: words, letters, numbers, figures, designs, or other symbolic representations incorporated into a sign.

County: Santa Fe County, New Mexico.

County Assessor: the County Assessor of Santa Fe County, State of New Mexico.

County Attorney: the County Attorney of Santa Fe County, State of New Mexico.

County Clerk: the County Clerk of Santa Fe County, State of New Mexico.

County Manager: the County Manager of Santa Fe County, State of New Mexico.

Credit: the amount of the reduction of a development fee, fees, rates, assessments, charges, or other monetary exaction for the same type of capital improvement for which the monetary exaction has been required.

Crest: highest point on a hill or the highest line along a ridge.

Critical Root Zone: a circular region measured outward from a tree trunk, representing the essential area of the roots that must be maintained for the tree's survival.

Cross Access Easement: vehicular connections via easement between adjacent parking lots serving nonresidential uses.

Cul-de-sac: a local street with only one outlet that terminates in a vehicular turnaround.

Cultural Remains: remains of prior human occupation or activity more than 50 years old whether permanent or non-permanent, including but not limited to, historic and prehistoric artifacts, archaeological features, human skeletal remains, animal skeletal remains found in an archaeological context, rock carvings, and culturally altered landscapes.

Cultural Resources: resources that possess qualities of significance in American, state, or County history, architecture, archaeology, and culture present in districts, sites, structures, and objects that possess integrity of location, design, setting, materials, workmanship, congruency, and association.

Cultural Site: a location or structure with cultural, historic, scientific, architectural, archaeological significance or other importance to the residents of Santa Fe County.

Cultural Treatment and Mitigation Plan: A plan for the recovery or protection of discovered cultural remains at significant historical, cultural or archaeological sites or landmarks. A plan shall include proposed excavation or preservation methods, proposed analysis techniques, and plans for the final disposition of artifacts recovered.

Culturally Altered Landscape: a landscape modified by human activity, including but not limited to roadways, agricultural fields, farming terraces, and irrigation ditches or other water control devices.

Cumulative Impact: the impact of a series of projects taken together to measure the joint and several impacts on the level of service and capacity of a public facility, or environmental impact.

Cut-Off: the point at which all light rays from the light source or luminaire is completely eliminated at a specific angle above the ground.

Cut-Off Luminaire or Fixture: a luminaire with shield, reflectors, reflector panels or other housing which directs and cuts off light rays from direct view.

Debt Service: a payment representing the principal of, interest on and premium, if any, on bonds; the fees and costs of registrars, trustees, paying agents or other agents necessary to handle the bonds; and the costs of credit enhancement or liquidity support.

Deciduous: plants that lose their leaves annually.

Deciduous Tree: see Tree, Deciduous.

Deck: a platform extending horizontally from the rear or side yard of the structure, located to the rear of the front building line of the lot and not within the front yard.

Dedication: transfer of title to, or grant of an easement over, lands and improvements to the County.

Demolition: an act or process that destroys or razes in whole or in part, or permanently impairs the structural integrity, or allows deterioration by neglect of a building or structure or land, wherever located, or a building, object, site, or structure, including interior spaces, of cultural, archeological or historic artifacts, or external sites.

Density: an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre.

Density Transfer: the transfer of density or development rights (TDRs).

Design Standards: see Development Standards.

Design Storm: a storm of 100-year recurrence interval and 24 hour duration.

Detention: temporary storage of stormwater run-off which is used to control the peak discharge rates and which provides gravity settling of pollutants.

Developed: A lot with at least one existing structure.

Developer: a person who owns property, or has common ownership of property, or who finances, manages, designs, administers, or invests in the development or redevelopment of property, that proposes any development.

Development: any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to building, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposit or extraction of materials, public or private sewage disposal systems or water supply facilities.

Development Agreement: an agreement between the County and a developer, owner or applicant establishing the obligations and rights of the each in connection with the granting of a development approval.

Development Approval: authorized action that grants, or grants with conditions, an application for approval of development.

Development Fee: a fee calculated to mitigate the cost of providing capital facilities imposed on new development as a condition of approval of such development.

Development of Countywide Impact ("DCI"): an activity regulated by Chapter 11.

Development Order: the written decision of the Board, Planning Commission or Administrator with respect to the granting, granting with conditions, or denial of an application for development approval.

Development Permit: any development order granting development approval of an application.

Development site: a parcel of land upon which development is proposed.

Development Standards: the standards for development as established in the SLDC.

Directional Sign: see Sign, Directional.

Disclosure Statement: a statement required to be given to persons acquiring an interest in subdivided land complying with the requirements of §47-6-17 NMSA 1978.

Discretionary Approval: see Discretionary Development Approval.

Discretionary Development Approval or Development Order: a development approval or development order that involves a legislative, quasi-judicial or discretionary administrative process leading to the issuance of a development order.

Distribution Lines: lines that interconnect the service line to a station, substation, or other parts of the distribution system or network.

District: see Zoning District.

Double Frontage Lot: See Lot, Double Frontage.

Double-Faced Sign: see Sign, Double-Faced.

Drainage System: all streets, gutters, inlets, swales, storm sewers, channels, streams, or other pathways, either naturally occurring or man-made, which carry and convey storm water during rainfall events.

Drainage Way: a channel formed by the existing surface topography of the earth or a man-made drainage network having a defined channel for the removal of water from the land, including both the natural elements of arroyos, streams, marshes, swales, and ponds, whether of an intermittent or continuous nature and man-made elements such as acequias, ditches, channels, retention facilities, and storm water systems.

Drive-Through Use: an establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, to obtain goods, or to be entertained while remaining in their motor vehicles.

Driveway: a roadway providing access to a road or highway from a building, structure, or a shared driveway.

Driveway Approach: a way or place, including paving and curb returns, between the street travel lanes and private property, which provides vehicular access between the roadway and such private property.

Duplex: see Dwelling, Two-Family (Duplex).

Dwelling or Dwelling Unit: an structure or portion of a structure that is designed, occupied or intended to be occupied, or has been previously used, as living quarters for a family and includes facilities for cooking, sleeping and sanitation; but not including recreational vehicles, travel trailers, hotels, motels, boardinghouses. Dwelling or dwelling unit includes single-family, two-family, and multi-family dwellings; manufactured homes and mobile homes.

Dwelling, Attached: two or more dwelling units with common walls.

Dwelling, Multifamily: a dwelling or group of dwellings on one lot containing separate living units for three or more families, but which may have joint services or facilities.

Dwelling, Single-Family: a single structure occupied exclusively by not more than one family.

Dwelling, Single-Family Attached: two or more dwelling units with common walls.

Dwelling, Single-Family Detached: a single-family dwelling that is not attached to any other dwelling by any means and is surrounded by open space or yards.

Dwelling, Two-Family (Duplex): a detached house designed for and occupied exclusively as the residence of not more than two families, each living as an independent housekeeping unit.

Dwelling Unit: See Dwelling.

Easement: authorization by a property owner for an adjacent property, or for a person to use the owner's property for a non-possessory specified use.

Easement, Utility: an easement granted for installing and maintaining utilities across, over, or under land, together with the right to enter the land.

Employee, Employ, and Employment: as used in Section 10.20 any person who performs any service on the premises of a sexually oriented business on a full-tine, part-time, or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by another status. *Employee* does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.

Enforcement Officer: the Administrator.

Engineer: see Professional Engineer.

Enhanced Services: public services provided by the County pursuant to the Public Improvement District Act, 5-11-1 NMSA 1978.

Environmental Impact Report: an assessment examining environmental effects or impacts of a development project.

Equipment Enclosure: an enclosed structure, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communications signals, but not primarily to store equipment or to use as a habitable space.

Escort Agency: a person or business association that for a fee, tip, or other consideration, furnishes, offers to furnish, or advertises to furnish, escorts as one of its primary business purposes.

Escort: a person who, for consideration, and for another person, agrees or offers: to act as a companion, guide, or date; to privately model lingerie; or to privately perform a striptease.

Escrow: a deposit of cash, letter of credit or surety bond with an escrow agent to secure the promise to perform some act.

Establish or Establishment: as used in Section 10.20, means and includes any of the following: the opening or commencement of any sexually oriented business as a new business; the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; the addition of any sexually oriented business to any other existing sexually oriented business; or the relocation of any sexually oriented business.

Event Sign: see Sign, Event.

Excavation: the process of altering the natural grade elevation by any activity by which soil, rock, minerals, ores, sand, limestone, gravel or other material is dug, removed, displaced, beneficiated, quarried or relocated.

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

Extraction: the removal of minerals, oil, gas, water, subsurface hydrocarbons, rocks, sand, gravel and limestone from subsurface areas.

Fabrication: manufacturing, assembling, stamping, cutting, or otherwise shaping processed materials into useful objects.

Façade: the exterior wall of a building exposed to public view.

Family Transfer: division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception is limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member.

Final Plat: see Plat, Final.

Financial Guaranty: a guarantee of performance, in cash, letter of credit or surety bond that is required to be deposited pursuant to the SLDC.

Fiscal Impact Assessment: a study required under Chapter 6.

Fixture: personal property permanently attached to real property.

Fixture (light): a complete lighting luminaire consisting of a light source and all necessary mechanical electrical and decorative parts.

Flag: see Banner, Flag or Pennant.

Flood or Flooding: a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of run-off of surface waters from any source.

Flood Hazard Area: the area within a floodway or floodplain.

Flood Hazard Boundary Map (FHBM): an official map of a community, issued by the Federal Insurance Administration, upon which areas within the boundaries of special flood hazards have been designated.

Flood Insurance Rate Map (FIRM): a map of the County on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones.

Flood Insurance Study (FIS): the official report provided by the Federal Emergency Management Agency, which contains flood profiles, water surface elevation, or the base flood, as well as the Flood Boundary Map.

Floodplain, 100-year: see 100-year floodplain.

Floodplain or Flood-Prone Area: a land area susceptible to being inundated by water from any source. See area of special flood hazard, flood or flooding, and 100-year floodplain.

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

Floodway: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without causing any cumulative increase in the water surface elevation. The floodway is intended to carry the dangerous and fast-moving water.

Floor Area: the sum of the gross horizontal areas of all floors of a structure, including interior balconies and mezzanines, measured from the exterior face of exterior walls or from the centerline of a wall separating two structures. Floor area includes the area of roofed porches having more than one wall and of accessory structures on the same lot. Stairwells and elevator shafts shall be excluded.

Floor Area Ratio (FAR): the ratio of the total building floor area in square feet to the total land area in square feet.

Foot-candle: a unit of illumination produced on or reflected by a surface, measured with a footcandle meter or sensitive photometer, which measures the candle power distribution of a source of light.

Frontage: where a property line is common with a street right-of-way line.

General Plan: see Sustainable Growth Management Plan.

Geographic Search Area: an area in which the proposed antenna must be located in order to provide the designed coverage or capacity based on radio frequency engineering considerations, grids, frequency coordination, propagation analyses, and levels of service consistent with accepted engineering standards and practices.

Glare: a bright source of light, the intensity of which is sufficiently greater than the level to which the eyes are adapted to cause annoyance or discomfort or loss in visual performance and visibility.

Grade: the slope of an improvement or natural feature.

Gray Water: untreated household wastewater that has not come into contact with toilet waste, including wastewater from bathtubs, showers, wash basins, clothes washing machines and laundry tubs.

Gross Floor Area: the aggregate floor area of an entire building or structure enclosed by and including the surrounding exterior walls.

Ground Cover: a plant growing less than two feet in height at maturity that is used for ornamental purposes, alternatives to grasses, and/or erosion control on slopes.

Groundwater: subsurface water as distinct from surface water.

Guyed: a style of antenna supporting structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of guy wires that are connected to anchors placed in the ground or on a building.

Habitable Structure: a structure that has facilities to accommodate people for an overnight stay, including, but not limited to, residential homes, apartments, condominiums, hotels, motels, and manufactured homes, and which does not include recreational vehicles.

Hazardous Materials: any hazardous chemical or extremely hazardous substance as defined and listed in the Federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. §9601.

Hearing Officer: the person appointed by the Board to conduct certain public hearings as assigned by Chapter 3 of the SLDC.

Height:

Structures: the vertical dimension measured from any point on the upper surface of a structure to the natural grade or finished cut grade, whichever is lower, directly below that point. The vertical depth of fill material from the natural grade, with or without retaining walls, shall be considered as a component of the structure; this depth shall be included in determining the structure height. Chimneys and solar panels may extend three feet (3') beyond the height limitation.

Antennas and Support Structures. Antenna and support structure height means the vertical distance, as measured from the lowest point of intersection with the natural grade around the perimeter of the base of the antenna or structure to the highest point of the tower, including all antennas, other attachments, or structures, when towers are mounted upon other structures.

Signs and Other Structures. Sign and other structures height shall be measured from the adjacent grade to the highest point of the sign or structure.

Height Limit: for purposes of the "O-AN" (Airport Noise Overlay) district, the elevation in feet above mean sea level, the projection above which a proposed structure or tree is not permitted, except as otherwise provided in the SLDC.

Highest Adjacent Grade: the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Home Occupation: a business activity carried on by a person in the resident's dwelling unit.

Homeowners' Association: a entity organized and existing under the laws of the State of New Mexico that owns and maintains in perpetuity the physical facilities, structures, signs, roads, systems, areas or grounds held in common and other improvements within a subdivision.

Hospital: an institution providing health services, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities, and staff offices.

Hotel: a commercial for profit transient lodging building containing guest rooms or suites intended or designed to be used or are used, rented, or hired out for compensation, to be occupied or are occupied for sleeping purposes by guests on a daily basis.

Household: a person or number of persons who reside or intend to reside in the same housing unit.

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

Impact Area: the area within which a proposed development is presumed to create a demand for public services and/or facilities.

Infrastructure: any physical system or facility that provides services, including but not limited to: sanitary sewage; storm water drainage and detention; flood control; water systems; schools and libraries; roads, streets, collectors, arterials and highways; areas for motor vehicle and bicycle use for road access, egress, ingress, rest areas and parking; trails and areas for pedestrian, equestrian, bicycle or non-motor vehicle use for access, egress, ingress and rest areas; public transit; fire; law enforcement; emergency response; parks, recreational facilities, open space; scenic vista sites; landscaping; electrical and natural gas transmission and distribution; lighting; cable or telecommunication lines; traffic control; heating, air conditioning, weatherization and energy efficiency facilities, including solar and wind turbines, and related costs and expenses for inspection, operation, maintenance, repair, replacement and construction management of such facilities and systems.

Itinerant vendor: Any person, firm, or corporation, whether as owner, agent, consignee, or employee, whether a resident of the county or not, who engages in a business of selling and delivering goods, wares, food, or merchandise of any kind or description and who may conduct business from a vehicle or other conveyance upon privately or publicly owned property but not on a public street, sidewalk, alley, or public road of the county.

Land Division: any division of land including, but not limited to an exempt land division as defined in Chapter 5.

Land Development Code: see Sustainable Land Development Code.

Land Use Assumptions: the analysis and projections of future growth and development prepared as the basis for planning future capital improvements, the need for which is generated by new development. The land use assumptions include a description of service areas and the CIP projects within each service area over a seven (7) year period required for the calculation of development fees pursuant to the Development Fees Act.

Landscape Architect: a landscape architect licensed by the State of New Mexico.

Landscape Planting Area: an area that accommodates the planting of trees, shrubs, and ground cover consistent with Chapter 7.

Legal Lot of Record: see Lot of Record, Legal.

Level of Service (LOS): an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility or public service. Level of service is a measure of the relationship between service capacity and service demand for public facilities.

Licensee: as used in §10.20, a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

Light Reflective Value (LRV): a measurement of the percentage of total visible light reflected from a surface.

Liquid Waste: domestic, commercial or industrial wastewater.

Liquid Waste Disposal System: a liquid waste collection, treatment and disposal system.

Lot: an individual parcel of land.

Lot, Corner: a lot or parcel located at the intersection of and abutting upon two roads at their juncture.

Lot Coverage: lot coverage shall be calculated as follows:

> Residential Uses. Lot coverage for residential uses includes that portion of a lot covered by the roofs of principal and accessory buildings and structures. Lot coverage for residential uses is calculated dividing the total area of all roofs (based on measurement around outside roof perimeter) on the lot by the gross lot area. Residential Lot Coverage = Roofed Area Footprint ÷ gross Lot Area.
>
> Nonresidential and Mixed Uses. Lot coverage for nonresidential uses and for mixed uses (nonresidential and residential) includes all impervious areas; i.e., hard-surfaced, human-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, swimming pools, sidewalks and paved recreation areas. Lot coverage for nonresidential uses is calculated by dividing the total area of all impervious surfaces on the site by the gross lot area. Nonresidential Lot Coverage = Impervious Area ÷ Gross Lot Area.

Lot, Double Frontage: a parcel with frontage on two roads.

Lot Line, Side: any lot line other than a street or rear lot line.

Lot Line, Street: in the case of a lot abutting only one street, the lot line separating a lot from the street; in the case of a corner lot, each lot line separating the lot from a street; in the case of a double frontage lot, each lot line separating the lot from a street shall be considered to be a street lot line.

Lot Line Adjustment: a lot line adjustment is an alteration of parcel boundaries where parcels are altered for the purpose of increasing or decreasing the size of contiguous parcels and where the number of parcels is not increased.

Lot of Record, Legal: a lot that was either legally created prior to January 1, 1981, or that was part of a subdivision or land division approved by the Administrator or the Board after January 1, 1981.

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

Lumen: a measure of brightness of illumination.

Luminaire: a complete lighting unit consisting of a light source and all necessary mechanical electrical and decorative parts.

Maintenance, Sign: see Sign Maintenance.

Maintenance Guaranty: a security instrument required by a County to ensure that public or nonpublic improvements will be operated, maintained, and repaired for a period of time following construction of the improvement as specified in a development order.

Major Subdivision: see Subdivision, Major.

Manufactured Home: a moveable or portable housing structure that exceeds either a width of eight feet or a length of forty feet, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy.

Manufactured Home Park: see Mobile Home Park.

Manufacturing: the mechanical, biological, or chemical transformation of materials or substances into new products, including the assembling of component parts; the manufacture of products; and the blending of materials, such as lubricating oils, plastics, resins, or liquors. Manufacturing covers all mechanical, biological, or chemical transformations, whether the new product is finished or semi-finished as raw materials in some other process.

Marquee Sign: see Sign, Marquee.

Mass: the size, height, symmetry, and overall proportion of a structure.

Master Site Plan: a graphic representation of proposed land uses and development that is required for approval of Planned Development and Mixed-Use Zoning Districts. The Master Site Plan shall include the following information:

1. a detailed area map showing the surrounding area within one-half mile of the proposed development in relationship to adjacent parcels, existing roadways and natural or man-made features that may impact or be impacted by the development; and

2. for each lot, parcel or tract, a list of proposed land uses and acreages, and the building area boundaries;

3. maximum number of dwelling units and maximum density;

4. maximum square footage of non-residential uses;

5. proposed screening and setback distances along the development property line;

6. existing land uses and zoning on adjacent property;

7. name of adjacent subdivisions, and if not subdivided, the name of the property owner(s);

8. proposed alignment of roadways and how they relate to existing transportation systems;

9. utilities on or adjacent to the site, including location and size of water wells, reservoirs, water lines, sanitary and storm drains and drainage facilities;

10. location of all irrigation channels and drains;

11. location of gas lines, fire hydrants, electric and telephone poles and street lights;

12. if water mains and sewers are not on or adjacent to the tract, show the direction, distance and size of the nearest lines;

13. existing topography: for land with average slope of less than 5%, show contour lines at intervals of not more than two feet; for land with average slope of more than 5%, show contour lines at intervals of not more than five feet; and

14. conditions on adjacent land that significantly affect design of development: direction and gradients of ground slope; character and location of development; access points from adjacent properties; and building types.

Maximum Annual Water Requirements: the total annual diversion required from any source to meet the water use requirements of the proposed development.

Mean Sea Level: for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Ministerial Decision: an administrative decision on an application that does not require legislative or quasi-judicial discretion and is not subject to a public hearing.

Ministerial Development Order: a development order entered as the result of a ministerial decision.

Minor Subdivision: see Subdivision, Minor.

Mitigation: a requirement that an adverse impact be counterbalanced.

Mixed-use: a land use pattern which provides for the integration of residential and non-residential uses.

Mixed-use Building: a building that contains mixed uses.

Mixed Use Zoning District: see §8.9.

Mobile Home: a single-family dwelling built on a permanent chassis designed for long-term residential occupancy and containing complete electrical, plumbing and sanitary facilities designed to be installed in a permanent or semipermanent manner with or without a permanent foundation, which dwelling is capable of being drawn over public highways as a unit or in sections by special permit. "Mobile home" does not include a recreational travel trailer or a recreational vehicle, as those terms are defined in Section 66-1-4.15 NMSA 1978.

Mobile Home Park: a parcel of land used for the continuous accommodation of twelve or more occupied mobile homes and operated for the pecuniary benefit of the owner of the parcel of land, his agents, lessees or assignees. "Mobile home park" does not include mobile home subdivisions or property zoned for manufactured home subdivisions.

Model Home: a dwelling unit used initially for display purposes, which typifies the type of units that will be constructed in a development and which will not be permanently occupied during its use as a model.

Monument Sign: see Sign, Monument.

Motel: a building or group of detached, semidetached, or attached buildings on a lot containing guest dwellings, each of which has a separate outside entrance leading directly to rooms, with a garage or parking space conveniently located with each unit, and which is designed, used, or intended to be used primarily for the accommodation of automobile transients. Motels may include bed-and-breakfast inns or boarding houses if they meet the above-defined criteria.

Multi-Tenant Center: One or more buildings, located on a single property, containing two or more separate and distinct businesses or activities which occupy separate portions of the building with separate points of entrance, and which are physically separated from each other by walls, partitions, floors or ceilings.

Native Vegetation: plant species with a geographic distribution indigenous to the applicable life zone in Santa Fe County. Plant species which have been introduced by man are not native vegetation.

Natural Slope: percent of slope as calculated prior to development from the elevation difference between adjacent contour lines divided by the perpendicular horizontal distance between them. The difference in elevation divided by the distance.

New Construction: means, for the purpose of §7.18, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structure.

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

New Mexico Department of Transportation or NMDOT: the duly authorized agency of the State of New Mexico whose agency has jurisdiction over the construction and maintenance of all State highways.

New Mexico Environment Department or NMED: the duly authorized agency of the state of New Mexico whose agency has jurisdiction over water quality, water delivery systems, liquid waste disposal system(s) and solid waste systems.

No Build Areas: land area or areas on a lot or parcel which are restricted for development pursuant to the sustainable design and improvement standards of §7.17.

Nonconforming Lot, Parcel, Structure or Use: a lot, parcel, structure or use that was lawfully established or commenced prior to the adoption or amendment of the SLDC that fails to meet the current requirements.

Nonconforming Sign: see Sign, Nonconforming.

Non-Disturbance Easement: an easement or covenant to avoid and protect significant historic, cultural or archaeological sites as an alternative to treatment.

Non-Residential Use: any use which does not involve or include the use of a structure as a dwelling.

Nude, Nudity or a **State of Nudity:** as applied in §10.20, the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Obstruction: Any structure, growth, or other object, including a mobile object, that exceeds a limiting height established by federal regulations or by the airport zoning regulations.

Office: A building used primarily for conducting the affairs of a business, profession, service, industry, government, or like activity, which may include ancillary services for office workers, such as a restaurant, coffee shop, supply, print or copy shop, newspaper and candy stand.

Official Map: the map adopted by the Board that represents the location, width and extent of public roads and highways, storm water and drainage basins and ways, floodway control basins or areas, parks, trails and recreation areas, whether or not such roads, highways, storm water and

drainage basins and ways, floodway control basins and areas, parks, trails and recreation areas are improved or unimproved, in actual physical existence or proposed for future establishment.

Official Zoning Map: see Zoning Map, Official.

Opaque: incapable of transmitting light.

Operate or Cause to Be Operated: for purposes of §10.20, to cause to function or to put or keep in a state of doing business. *Operator* means any person on the premises of a sexually oriented business who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in operation, the business. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

Outdoor Storage: keeping, in an unroofed area, of any goods, junk, material, or merchandise in the same place for more than 24 hours.

Overlay Zone or Overlay Zoning District: a classification that is superimposed over one or more base zoning districts or parts of districts, imposing specified requirements in Chapter 8.

Owner: a legal or equitable owner holding a fee simple, life estate, future interest, lease, easement, profit, or irrevocable license of land, including but not limited to air rights, surface, water or subsurface rights, whether a person, corporation, trust, partnership, business, sole proprietorship, association or any other legal entity of all lands, including all lands in common ownership with the owner.

Parcel: see Lot.

Parking Lot: an off-street area for the temporary storage of motor vehicles.

Parking Standards: see Chapter 7.

Parking Structure: a building or structure used exclusively for the parking of vehicles.

Peak Flow: design capacity of a channel to handle the volume of water generated by the design storm. Q is measured in cubic feet per second (cfs). The Manning or Chezy formula shall apply.

Peak-Hour Trips: the number of traffic units generated by and attracted to a proposed development during its heaviest hour of use, dependent on type of use.

Pennant: see Banner or Flag.

Percent of Slope: vertical change in a land surface calculated as follows: (H-L)/D x100 = % slope, where H is the highest elevation of the area for which slope is being determined; L is the lowest elevation of the area for which slope is being determined; and D is the horizontal distance between H and L measured perpendicular to the contour lines.

Permanent Foundation: a system of supports for a structure that supports its maximum design load, is constructed of concrete or masonry materials, and is placed at a sufficient depth below grade adequate to prevent frost damage.

Permeability: capacity of a material to transmit a liquid, which is expressed in terms of hydraulic conductivity of water in centimeters-per-second units of measurement.

Permit: see Development Approval**,** or Development Permit**.**

Permitted Water Rights: the right to appropriate water to beneficial use as authorized by a permit issued by the New Mexico State Engineer other than a permit issued under the provisions of NMSA 1978 §72-12-1, as amended.

Person: a natural person, corporation, partnership, trust, entity, organization, joint venture, association (including homeowners' or neighborhood associations), non-profit organization, trust, or any other entity recognized by law.

Personal Services: establishments primarily engaged in providing services involving the care of a person or his/her apparel, such as laundry cleaning and garment services, linen supply, coin-operated laundries, carpet and upholstery cleaning, photographic studios, beauty shops, barber shops, shoe repair, funeral services, and health clubs, and clothing rental.

Personal Wireless Service: commercial mobile services (including cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, and paging), unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

Pervious Pavement: a pavement system with traditional strength characteristics but which allows rainfall to percolate through it rather than running off.

Phased Subdivision or Development: subdivision or other development whereby a portion of the property is developed in one or more individual sections over a period of time.

Pitch: the slope of a roof as determined by the vertical rise in inches for every horizontal 12-inch length (called the "run"). Expressed with the rise mentioned first and the run mentioned second (e.g., a roof with a 4-inch rise for every horizontal foot has a 4:12 pitch).

Plan, Area: see Area Plan.

Plan, Community: see Community Plan.

Plan, Comprehensive: see Sustainable Growth Management Plan.

Plan, General: see Sustainable Growth Management Plan.

Plan, Site Development: see Site Development Plan.

Plan Amendment: an amendment of the SGMP, Area or a Community Plan.

Planned Capital Improvement: a capital improvement included within the CIP.

Planned Development: a development under single ownership, planned and developed as an integral unit and consisting of a combination of residential, mixed or nonresidential uses on the land within a Planned Development District.

Planning Commission: the County's Planning Commission, established in the SLDC, Chapter 2, in accordance with law.

Plat: a complete and exact map representing a tract or tracts of land, showing the boundaries and location of individual lots, easements, and/or streets, which has been approved and recorded in the offices of the Administrator and County Clerk.

Plat, Consolidation: a plat representing a merger, incorporation or consolidation of two or more parcels, lots, or tracts of land.

Plat, Final: an approved, recorded plat which authorizes immediate development of a parcel or parcels.

Plat, Preliminary: a plat which must be approved before seeking final plat approval.

Plat, Subdivision: a plat on which a subdivider's plan of subdivision is shown.

Plat, Vacation: a plat executed by owners of lots in a recorded subdivision vacating all, or portions of, a previously approved and recorded plat.

Police Power: see §4-37-1 NMSA 1978.

Porch: a roofed area, which may be glazed or screened, attached to or part of and with direct access to or from a structure.

Preliminary Plat: see Plat, Preliminary.

Principal Use: the primary or main use of land or structures, as distinguished from a secondary or accessory use.

Processing and Warehousing: the storage of materials in a warehouse or terminal and where such materials may be combined, broken down, or aggregated for transshipment or storage purposes where the original material is not chemically or physically changed.

Professional Engineer: an engineer licensed by the State of New Mexico.

Projected Traffic: traffic that is projected to develop in the future.

Projecting Sign: see Sign, Projecting.

Property or Street Frontage: the side of a lot or development site abutting on a public road.

Property Owner: a person holding title to property.

Proportionate Share: the portion of the cost of capital improvements which reasonably relates to the service demands and needs of the development project and bears a reasonable relationship to the capital facility and service demands imposed by the development project to provide public capital improvements and services to a development.

Public Hearing: A proceeding at which certain persons, including the applicant, may present oral comments or documentation to a fact-finder.

Public Improvement District: a public improvement district (PID) formed pursuant to §§ 5-11-1 through 5-11-27 NMSA 1978 with the power to levy taxes, special levies, fees, charges, or assessments for the construction, maintenance, repair and operation of public improvements and enhanced services for public safety, fire protection, street or sidewalk cleaning and landscape maintenance.

Public Meeting: a meeting of the Board, Planning Commission, Hearing Officer or other administrative agency or County official, preceded by notice, open to the public, and at which the public may, at the discretion of the body holding the public meeting, be heard.

Public Property: property that is owned by the County, a municipality, a County utility, PID or other special district, or any agency of the state or federal government.

Public Right-Of-Way: a strip of land acquired by reservation, dedication, prescription, or condemnation, and used or intended to be used, wholly or in part, as a public street, alley, walkway, drain, park, trail, recreation area, open space, storm water conveyance system or for a public utility line.

Public Road: a road accessible to the public that is maintained by a private entity, the County, the State of New Mexico, or any municipality.

Public Water System: the water system constructed and maintained by the Santa Fe County Utilities Department.

Q: see Peak Flow. "Q" is measured in cubic feet per second (cfs). Manning's or Chezy's formula shall be utilized to establish Q, but the rational formula does not apply.

Radio Frequency Emissions: an electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment.

Real Estate Sign: see Sign, Real Estate.

Rear Yard: see Yard, Rear.

Receiving Area: an area appropriate for receiving development rights through a transfer of development rights.

Receiving Parcel: a tract, lot or parcel of land that is the recipient of a transfer of development rights.

Reconnaissance Survey: a visual examination of land surfaces that are to be disturbed.

Recreational Vehicle: a vehicle with a camping body that has its own mode of power, is affixed to or is drawn by another vehicle, and includes motor homes, travel trailers and truck campers.

Registered Land Surveyor: a land surveyor properly licensed and registered by the State.

Regulatory Floodway: see Floodway.

Rehabilitation: the act or process of returning a building, object, site, or structure to a state of utility through repair, remodeling, or alteration, which makes possible an efficient contemporary use while preserving those portions or features of the building, object, site, or structure that is significant to its historical, architectural, and cultural values.

Relocation: a change of the location of a building or structure.

Replat: a revision and re-recording of an approved, recorded Plat.

Reservation: designation of a portion of a property for a proposed right-of-way, trail, open space, park, recreation area or environmentally sensitive land without dedication.

Residential: a structure which is used as a dwelling.

Residential, Multi-Family: See Dwelling, Multi-Family.

Residential Development: development devoted primarily to dwellings for residential use.

Restrictive covenant: a covenant creating restrictions on land or property.

Retail Use: a use engaged in retail trade.

Retaining Wall: a wall for holding in place a mass of earth or other material.

Rezoning: The re-designation of an area, lot, or parcel from one zoning classification to another.

Ridge or Ridge Top: the uppermost elevations, between the shoulder and crest, of any hill or ridge.

Right-of-Way: the legal right, established by usage or grant, to pass along a specific route through property belonging to another.

Riverine: relating to, formed by, or resembling a river (including tributaries), stream, wash or arroyo.

Road: a right-of-way that provides a channel for vehicular circulation; is the principal means of vehicular access to abutting properties; and may include space for utilities, sidewalks, pedestrian walkways, and drainage. Any such right- of-way is included in this definition, regardless of whether or not it is developed.

Road, Collector: a road that serves as a connection between local roads and one or more arterial roads.

Road, Local: a road that provides access to a limited number of abutting properties, and that is further classified as a subcollector.

Road, Major Arterial: a road that has two to six driving lanes. A major arterial road may be divided with a median, and may provide additional right-of-way for turning lanes and at major intersections.

Road, Minor Arterial: a road that has two to four driving lanes. A minor arterial road may be divided with a median, and may provide additional right-of-way for turning lanes and at intersections.

Roadway: the portion of the road available for vehicular traffic and, where curbs are laid, the portion from back-to-back of curbs.

Road, Sub-collector: see Road, Local.

Rock Outcropping: an area that is part of a rock formation or geologic formation/structure that is exposed or visible at the surface of the earth naturally or artificially and is un-obscured by soil, vegetation or water.

Roof Line: the uppermost line of a flat pitched roof of a building; in the case of a parapet, the uppermost height of the parapet.

Safe Sight Triangle: an area required to be free of obstructions to enable visibility between conflicting movements. See Figure 7.5.

Sanitary Landfill: an area of land upon which solid waste is disposed of in accordance with standards, rules, or orders established by the State of New Mexico.

Satellite Dish Antenna: a device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, cone, or horn; and is to be used to transmit and/or receive electromagnetic waves between terrestrially and/or orbitally based uses.

Satellite Earth Station: a device or antenna, including associated mounting devices or antenna supporting structures, used to transmit or receive signals from an orbiting satellite, including television broadcast signals; direct broadcast satellite services; multichannel, multipoint distribution services; fixed wireless communications signals; and any designated operations indicated in the Federal Communications Commission's Table of Allocations for satellite services.

Scale: the relationship of a building or structure to its surroundings with regard to its size, height, bulk, and/or intensity.

School: an institution or place for instruction or education.

Screen or Screening: vegetation, fence, wall, berm, or a combination of any or all of these that partially or completely blocks the view of, and provides spatial separation of a portion or all of a site from, an adjacent property or right-of-way.

Security: a letter of credit, surety bond or cash escrow provided by the applicant to secure conditions imposed in a development order.

Self-Storage Facility: a building or group of buildings that is composed of contiguous individual rooms, which are rented to the public for the storage of personal property and which have independent access and locks under the control of the tenant.

Semi-nude or in **a Semi-nude Condition:** under §10.20, the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

Semi-nude Model Studio: under §10.20, a commercial establishment which regularly features a person (or persons) who appear semi-nude and is provided to be observed, sketched, drawn, painted, sculptured, or photographed by other persons who pay money or any form of consideration, but shall not include a proprietary school licensed by the State of New Mexico or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

Sending Area or Parcel: an area designated as appropriate for the conveyance of transferable development rights.

Septic Tank System: a tank which is designed and constructed to separate solids from the liquid and digest organic matter together with an absorption field.

Service Area: a defined geographic area in which capital facilities or facility expansions specified in the CIP will provide service to development.

Service Unit: a standardized measure of consumption, use, generation or discharge attributable to the gross floor area of an individual structure or building, calculated in accordance with generally accepted engineering or planning standards, for each functional category of capital improvements or facility expansions.

Setback (Required Setback): the minimum distance from the property line to where a structure may be built, as established by the zoning district standards of Chapter 8. Setback establishes the minimum required yard and governs the placement of structures and uses on the lot.

Setback Line: the line that establishes the required setback.

Sexual Encounter Center: as used in §10.20, a business or a commercial establishment, that as one of its principal business purposes, offers any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities." The definition of sexual encounter establishment or any sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

Sexually Oriented Business: as used in §10.20, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, semi-nude model studio, or sexual encounter center.

Shade Tree: see Tree, Shade.

Shared Well: see Well, Shared.

Shop: A use devoted primarily to the sale of a service or a product or products.

Shoulder: the line along which the profile of the upper slope of an elevation (hill, ridge, mountain, escarpment, etc.) changes from 20 percent or greater slope to less than 20 percent slope.

Side Yard: see Yard, Side.

Sidewalk: the portion of a street between the curb lines or lateral lines of a roadway and the adjacent property lines, which is improved and designed for or is ordinarily used for pedestrian travel.

Sign: a device, fixture, surface, or structure of any kind, made of any material, displaying letters, numbers, words, text, illustrations, symbols, forms, patterns, colors, textures, shadows, merchandise or lights; or any other illustrative or graphic display designed, constructed, or placed on the ground, on a building, architectural projection, wall, post, or structure of any kind, in a window, or on any other object for the purpose of advertising, identifying or calling visual attention to any place, structure, firm, enterprise, profession, business, service, product, commodity, person, or activity whether located on the site, in any structure on the site or in any other location. The term "placed" includes constructing, erecting, posting, painting printing, tacking, nailing, gluing, sticking, sculpting, casting, or otherwise fastening, affixing, or making visible in any manner. The term does not include a religious symbol on a place of worship.

Sign, Cabinet: a sign that contains all the text and/or logo symbols within a single enclosed cabinet and may or may not be illuminated.

Sign, Commercial: a sign designed to advertise a product or service.

Sign, Directional: a sign utilized solely for the purpose of indicating the location or direction of any object, place or event.

Sign, Double-Faced: a sign constructed to display its message on the outer surfaces of two identical and opposite parallel planes.

Sign, Event: a temporary sign for a temporary event, including, signs for a carnival or fair, for an athletic event or competition, for a vehicle show, or for an election campaign.

Sign, Freestanding: a sign that is supported by a base structure that rests on the ground and is not supported by or attached to a building, including pole mounted and pedestal signs that are permanently affixed to the ground, supported by uprights or braces and are not attached to any building or structure.

Sign, Marquee: a permanent canopy projecting above an entrance and over a sidewalk or terrain.

Sign, Monument: a permanent freestanding sign where the entire supporting base of the sign is affixed to the ground and is not attached to or supported by a building or structure.

Sign, Neon: glass tube lighting in which a gas and phosphors are used in combination to create a colored light.

Sign, Nonconforming: a sign that was lawfully constructed or installed prior to the adoption or amendment of to the SLDC, which was in compliance with any land development regulations then in effect but which does not presently comply with the land development regulations.

Sign, Projecting: a sign, other than a wall sign, that is suspended from or supported by a structure attached to a building and projecting outward beyond the façade of the building.

Sign, Promotional a sign erected on a temporary basis to promote the sale of new products, new management, new hours of operation, new service, grand opening, or to promote a special sale.

Sign, Real Estate: a sign indicating that a property or any portion thereof is available for inspection, sale, lease, rent, or directing people to a property, but not including temporary subdivision signs.

Sign, Temporary: A sign which relates to an event, function or activity of a specific, limited duration.

Sign, Vehicle: a sign that is attached to or painted on a vehicle that is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or business located on the property.

Sign, Wall: a sign attached to, painted on, or incised into the wall of a building or structure in such a manner that the wall is the supporting structure for, or forms the background surface of, the sign.

Sign, Window: a sign posted, painted, placed, or affixed in or on a window exposed to public view. An interior sign that faces a window exposed to public view that is located within three feet of the window is considered a window sign for the purpose of calculating the total area of all window signs.

Sign, Yard Sale: a temporary sign used to attract attention and advertise the presence/location of a sale of personal property on a premise within a residential zoning district.

Sign Area: the net geometric area of a sign, as calculated in accordance with § 7.9.11.

Sign Height: see Height, sign.

Sign Maintenance: the painting of signs and/or the replacement of sign parts of a nonstructural nature (e.g., lights, trim pieces, panels, etc.).

Significant Tree: see Tree, Significant.

Single-Family Dwelling: see Dwelling, Single Family.

Site: location of a lot or parcel or a structure thereon.

Site Development Plan: a scaled drawing for a project that shows the proposed development of the lots, parcels, or tracts, including elevations, sections, architectural, landscape, engineering, and ecological drawings as required for development approval.

Site-Generated Traffic: vehicular trips attracted to, or produced by the proposed development site.

Slope: the ratio of elevation change to horizontal distance, expressed as a percentage, computed by dividing the vertical distance by the horizontal distance and multiplying the ratio by 100. For purposes of this appendix, a "slope" shall include only those areas with a horizontal distance of at least 50 feet.

Solid Waste: any solid or semi-solid discarded material which results from household, commercial, industrial or other operations, including manure, but does not include water-carried waste in sewage systems.

Special Flood Hazard Area: see Area of Special Flood Hazard.

Specified Anatomical Areas: as used in §10.20, the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

Specified Criminal Activity: as used in §10.20, any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity relating to a sexually oriented business; sexual assault; molestation of a child; distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries for which: less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

Specified Sexual Activities: any of the following: the fondling of another person's genitals, pubic region, anus or female breasts; sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or excretory functions as part of, or in connection with, any of the activities set forth above.

Spot Zoning: rezoning of a parcel of land to benefit the owner for a use that is incompatible with surrounding land and inconsistent with the goals, objectives, land uses, policies and strategies of the SGMP, or applicable area or community plan, and does not further the comprehensive zoning plan, intent, purposes and findings of the SLDC.

Stable: a structure used for the shelter or care of horses and cattle.

State: the State of New Mexico including all state departments, officials and agencies under the executive branch.

State Engineer: the State Engineer of New Mexico whose office has jurisdiction over certain surface and subsurface water rights.

Stealth Wireless Communications Facility: a wireless communications facility, ancillary appurtenance, or equipment enclosure that is not readily identifiable as such, and is designed to be camouflaged and aesthetically compatible with nearby uses. A stealth facility may have a secondary function, including, but not limited to, a church steeple, a bell tower, a spire, a clock tower, a cupola, a light standard, or a flagpole with a flag.

Steep Slope: any land having a natural slope of 15 percent or more.

Store: a building devoted exclusively to the retail sale of commodity or commodities.

Story: the part of a building between the surface of a floor and the ceiling immediately above.

Streetscape: the general appearance of a block or group of blocks with respect to the structures, setbacks from public rights-of-way, open space, and the number and proportion of trees and other vegetation.

Structure: anything constructed or installed or portable, the use of which requires a location on, above or under a parcel of land, including without limitation a dwelling or building usable for residential, non-residential storage or agricultural purposes either temporarily or permanently; advertising signs, billboards; poles; pipelines, transmission lines and tracks, wireless communications facilities.

Subdivide: to divide a surface area of land into tracts, parcels or lots; the act or process of creating a subdivision.

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

Subdivision: the division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease or other conveyance or for building development, whether immediate or future; but "subdivision" does not include those divisions described in §5.4.3.

Subdivision, Major: see §5.5.

Subdivision, Minor: see §5.5.

Subdivision, Summary Review: see §5.6.

Subdivision Improvement Agreement: a development agreement entered into by the applicant and the County in which the applicant promises to complete the required public improvements within the subdivision within a specified time.

Subdivision Plat: see Plat, Subdivision.

Subject Property: the property for which an application for development approval is filed.

Substantial Alteration: alteration where the work area exceeds 50 percent of the aggregate area of the building or structure.

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

Substantial Enlargement: of a sexually oriented business under §10.20 means the increase of the floor areas occupied by the business by more than twenty-five (25) percent, as the floor areas exist on the date this Section takes effect.

Substantial Improvement: any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before "start of construction" of the improvement.

Summary Review Subdivision: see Subdivision, Summary Review.

Support Structure: as used in §10.17, a structure designed and constructed primarily to support one or more Antenna Arrays.

Sustainable Design and Improvement Standards: see Chapter 7.

Sustainable Development Area (SDA): see §8.3.

Sustainable Growth Management Plan (SGMP): the long-range general plan, authorized by Section 5-11-3 NMSA 1978, consisting of the adopted Santa Fe County Sustainable Growth Management Plan (SGMP) including any adopted Area or Community Plans, the Capital Improvements Plan and the Official Map, intended to guide the growth and development of the County**.**

Sustainable Land Development Code (SLDC): this Ordinance, together with any amendments.

Swale: a low lying or depressed stretch of land without a defined channel or tributaries.

Taking: an economic burden imposed upon an owner which prevents a realization of all or substantially all reasonable use and value of the property taken as an entirety, including all land in common ownership.

Technical Advisory Committee (TAC): A committee appointed by the Administrator to assist with the review of development applications.

Temporary Sign: see Sign, Temporary.

Temporary Use: a use that is not permitted within the relevant Zoning District but may nevertheless be permitted within the Zoning District on a temporary basis as provided in the SLDC, or a use that is permitted within the relevant Zoning District but permitted only for temporary use as provided in the SLDC.

Terrain Management: Control of floods, drainage and erosion, and measures necessary to adapt proposed development to existing soil characteristics and topography.

Tract: a lot. The term "tract" is used interchangeably with the term "lot," particularly in the context or subdivision, where a "tract" is subdivided into several lots, parcels, sites, units, plots, condominium units, tracts, or interests.

Traditional Community: A Traditional Community located in the county as established in the SLDC.

Traditional Neighborhood Development: An approach to land use planning and urban design that promotes the building of pedestrian friendly neighborhoods with a mix of uses, housing types and costs, lot sizes, density, architectural variety, a central meeting place such as a town square, a network of narrow streets and alleys, interconnected streets and defined development edges.

Traffic Impact Report or Assessment: a study required under Chapter 6.

Transfer of Development Rights (TDR): The conveyance of development rights by deed, easement, or other legal instrument, authorized by the SLDC, to another parcel of land and the recording of that conveyance.

Transfer of Ownership or Control: of a sexually oriented business under §10.20 means and includes any of the following: the sale, lease, or sublease of the business; the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Transmission Lines: Lines that interconnect the distribution network(s). Typically, but not always, transmission lines, such as gas and electric power lines, make connections between, connect to, and use substations, stations, and other generating facilities.

Tree: A perennial woody plant, with single or multiple trunks, with few if any branches on its lower part, and which at maturity will obtain a minimum 6-inch caliper.

Tree, Deciduous: a tree that sheds or loses foliage at the end of the growing season.

Tree, Ornamental: A small to medium tree, growing to a mature height of 15 to 40 feet.

Tree, Shade: A large tree growing to a height of 40 feet or more at maturity.

Tree, Significant: an existing native trunk-type tree in good health and form which is eight inches or more in diameter as measured 4½ feet above natural grade; any existing native bush-form or character tree (e.g., piñon) which is eight feet high and has a spread of eight feet.

Trip Generation: the origin, destination and number of trips for the entire day and the a.m. and p.m. peak periods, including the rates and units used to calculate the number of trips.

Undeveloped: a lot, parcel or tract with no existing structure thereon.

Use: the purpose for which a land or a structure is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased.

Use Matrix: the list of uses permitted as of right, prohibited, or permitted as a conditional use as set forth in Appendix B.

Utility: all utility lines and any appurtenant hardware, equipment, buildings, etc. A utility is not a telecommunications facility and tower.

Vacation: the act of rescinding all or part of: a recorded subdivision plat; street; right-of-way or land including revocation of legal fee simple dedications and grants of easements.

Vacation Plat: see Plat, Vacation.

Variance: see §4.9.7.

Vehicle Sign: see Sign, Vehicle.

Vested Rights: right to initiate or continue the use or occupancy of land, buildings or structures, or to continue construction of a building, structure or initiation of a use, pursuant to a prior lawful development

approval obtained in good faith, where such use, occupancy of land, or construction is currently prohibited by the SLDC or other applicable county ordinance, statute, judicial decision or regulation in effect. Vested rights include rights obtained under principles of equitable or quasi-equitable-estoppel.

Violation: failure of a use, site, building, or structure to comply with the requirements of the SLDC.

Wall Sign: see Sign, Wall.

Warehousing: see Processing and Warehousing.

Water Supply System: system to provide water for domestic use of human consumption.

Water Surface Elevation: the height, in relation to the National Geodetic Vertical Datum of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse: a river, creek, spring, stream, acequia or any other like body having definite banks and evidencing an occasional flow of water.

Well, Shared: a common well that provides water to more than one lot.

Wetland: land that has a predominance of hydric soil; is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and under normal circumstances supports a prevalence of that vegetation.

Wholesale Trade: establishments or places of business primarily engaged in selling merchandise to retailers, industrial, commercial, institutional, or professional business users; to other wholesalers; or to those acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Window Sign: see Sign, Window.

Wireless Communications: personal wireless service, radio and television broadcast services, and any other radio frequency signals, including amateur radio. Does not include signals transmitted to or from a satellite earth station.

Wireless Communications Facility (WCF): a staffed or unstaffed facility used for the transmission and/or reception of wireless communications, usually consisting of an antenna or group of antennas, transmission lines, ancillary appurtenances, and equipment enclosures, and may include an antenna supporting structure. The following developments will be considered as a wireless communications facility: antenna supporting structures (including replacements and broadcast); collocated antennas; roof-mounted structures; surface-mounted antennas; stealth wireless communications facilities; and amateur radio facilities.

Wireless Communication Facility, Attached (AWCF): an Antenna Array that is attached to Existing Vertical Infrastructure along with any accompanying device for attaching the Antenna Array to the Existing Vertical Infrastructure and Equipment Facility, which may be located either inside or outside of the Existing Vertical Infrastructure.

Xeriscape: landscaping with native plants that utilizes the existing arid environmental conditions to the best advantage, conserving water and protecting the native environment.

Yard: An open space area on a lot, between a lot line and the nearest principal or accessory building or structure, required by the SLDC to be unoccupied and unobstructed either on, above or below ground level. A yard may be a front, side or rear yard.

Zoning District: see Chapter 8.

Zoning Map, Official: the SLDC map that geographically depicts zoning district boundaries and classifications within the County.

PART 3: ACRONYMS AND ABBREVIATIONS.

APF: Adequate public facilities
ANSI: Build Green NM Bronze Level ANSI Standard ICC 700 (2008) (for residential projects only), approved by the Build Green NM Advisory Board.
Board: Board of County Commissioners
BUD: Beneficial Use and Value Determination
CC&Rs: Covenants, conditions, and restrictions
C.F.R.: Code of Federal Regulations
CG: Commercial General [zoning district]
CIP: Capital improvements program
CUP: Conditional use permit
FAA: Federal Aviation Administration
FCC: Federal Communications Commission
FEMA: Federal Emergency Management Agency
FHA: Fair Housing Act
FIRM: Flood insurance rate map
FIS: Flood Insurance Study
HOA: Homeowners' association
HUD: [United States Department of] Housing and Urban Development
LBCS: Land-based classification standards
LOS: Level of service
MUTCD: [U.S. Department of Highway Administration's] Manual on Uniform Traffic Control Devices
NAICS: North American Industry Classification System
NFIP: National Flood Insurance Program
SFHA: Special Flood Hazard Area
TDR: Transfer of development
TIA: Traffic impact analysis
U.S.C.: United States Code
USGS: United States Geological Survey

Use	Function	Structure	Activity	Ag/Ranch - 160	RUR- 40	RUR-F 20 ac	RUR-R 10 AC	RES-F 5 ac	RES-E 2.5 AC	RES-Comm-1 DU	TC .75	Mixed Use	Commercial	Industrial	P D * D	Special Conditions
Residential Buildings																
Single family detached units		1110		p	p	p	p	p	p	p	p	P	X	X	P	
Single-family attached units		1120		P	P	P	P	P	P	P	P	P	X	X	P	
Duplex structures		1121		P	P	P	C	C	C	C	C	P	X	X	P	
Accessory dwelling units		1130		a	a	a	C	C	C	C	C	a	a	a	P	Chapter 10
Accessory apartments		1130		a	a	a	C	C	C	C	C	a	a	a	P	Chapter 10
Townhouses				P	P	P	P	P	P	P	P	P	P	x	P	
Multifamily dwellings	1202-99			C	C	C	C	C	C	C	C	p	c	X	P	
Retirement Housing	1210			P	P	P	P	P	P	P	P	P	X	X	P	
Assisted living facility	1230			P	P	P	C	C	C	C	C	P	P	X	P	
Life care or continuing care facilities	1240			P	P	P	C	C	C	C	C	P	P	X	P	
Skilled nursing facilities	1250			P	P	P	C	C	C	C	C	P	P	X	P	
Community Home, NAICS 623210				P	P	P	C	C	C	C	C	P	P	X	P	
Barracks		1310		a	a	a	x	x	x	x	x	a	a	a	P	
Dormitories		1320		a	a	a	x	x	x	x	x	a	a	x	P	
Single room occupancy units		1340		a	a	a	x	x	x	x	x	c	a	x	P	Chapter 10
Temporary structures, tents etc. for shelter		1350		p	p	p	a	a	a	a	a	A	P	p	P	
Hotels, motels, or other accomodation services																
Bed and Breakfast inn	1310			P	P	P	C	C	C	C	P	C	C	x	P	Chapter 10
Rooming and boarding housing	1320			c	c	c	c	c	c	c	c	p	p	x	p	
Hotels, motels, and tourist courts	1330			a	a	a	x	x	x	x	x	p	p	x	p	
Commercial Buildings																
Community center		2200		p	p	p	c	c	c	c	c	p	p	x	p	
Shop or store building with drive-through facility —		2210		x	x	x	x	x	x	x	x	x	c	c	p	
Restaurant, with incidental consumption of alcoholic beverages —		2220		a	a	a	x	x	x	x	c	c	p	x	p	
Restaurant, with no consumption of alcoholic beverages permitted		2220		a	a	a	x	x	x	x	c	p	p	c	p	
Stand-alone store or shop building		2230		a	a	a	x	x	x	x	c	p	p	c	p	
Department store building		2240		x	x	x	x	x	x	x	x	c	p	x	p	
Warehouse discount store/superstore	2124	2250		x	x	x	x	x	x	x	x	c	p	c	p	
Market shops, including open markets		2260		a	a	a	x	x	x	x	c	p	p	c	p	
Gasoline station		2270		c	c	c	x	x	x	x	c	c	p	p	p	
Automobile repair and service structures		2280		c	c	c	x	x	x	x	c	p	p	p	p	
Car dealer	2111			c	c	c	x	x	x	x	x	c	p	p	p	
Bus, truck, mobile home,or large vehicle dealers	2112			c	c	c	x	x	x	x	x	x	p	p	p	
Bicycle, motorcycle, allterrain vehicle dealers	2113			c	c	c	x	x	x	x	x	c	p	p	p	
Boat or marine craft dealer	2114			c	c	c	x	x	x	x	x	x	p	p	p	
Parts, accessories, or tires	2115			c	c	c	x	x	x	x	c	p	p	p	p	
Gasoline service	2116			c	c	c	x	x	x	x	c	x	p	p	p	
Lumberyard and building materials	2126			c	c	c	x	x	x	x	c	c	p	p	p	

Use	Function	Structure	Activity	Ag/Ranch - 160	RUR- 40	RUR-F 20 ac	RUR-R 10 AC	RES-F 5 ac	RES-E 2.5 AC	RES-Comm-1 DU	TC .75	Mixed Use	Commercial	Industrial	P D * D	Special Conditions
Outdoor resale business	2145			c	c	x	x	x	x	x	x	x	c	p	p	
Pawnshops	NAICS 522298			x	x	x	x	x	x	x	c	p	p	c	p	
Beer, wine, and liquor store (off-premises consumption of alcohol)	2155			c	c	c	x	x	x	x	c	c	c	x	p	
Shopping center	2510-2580			x	x	x	x	x	x	x	x	c	p	x	p	
Convenience stores or centers		2591		x	x	x	x	x	x	x	p	p	p	p	p	
Car care center		2593		x	x	x	x	x	x	x	c	p	p	p	p	
Car washes	NAICS 811192			x	x	x	x	x	x	x	x	x	p	p	p	
Office or bank building, stand-alone (without drive-through facility)		2100		a	a	a	x	x	x	x	c	p	p	x	p	
Office building (with drive-through facility)		2110		x	x	x	x	x	x	x	x	c	p	x	p	
Office or store building with residence on top		2300		x	x	x	x	x	x	x	c	p	c	x	p	
Office building over storefront structure		2400		x	x	x	x	x	x	x	c	p	p	x	p	
Research and development services (scientific, medical, and technology)	2416			c	c	c	x	x	x	x	c	p	p	p	p	
Car rental and leasing	2331			c	c	c	x	x	x	x	c	p	p	p	p	
Leasing trucks, trailers, recreational vehicles, etc.	2332			c	c	c	x	x	x	x	x	x	p	p	p	
Services to buildings and dwellings, pest control, janitorial, landscaping, carpet upholstery, cleaning, parking and crating	2450			c	c	c	x	x	x	x	c	x	p	p	p	
Bars, taverns and nightclubs				x	x	x	x	x	x	x	c	p	p	c	p	
Camps, camping, and related establishments	5400			p	p	p	x	x	x	x	c	x	x	x	p	
Tattoo parlors				x	x	x	x	x	x	x	c	p	p	c	p	
Industrial buildings and structures, manufacturing and wholesale trade																
Light industrial structures and facilities (not enumerated in Codes 2611-2615, below)		2610		c	c	c	x	x	x	x	x	x	x	p	p	
Loft building		2611		c	c	x	x	x	x	x	x	x	x	p	p	
Mill-type factory structures		2612		c	c	x	x	x	x	x	x	x	x	p	p	
Manufacturing plants		2613		x	x	x	x	x	x	x	x	x	x	p	p	
Industrial parks		2614		x	x	x	x	x	x	x	x	x	x	p	p	
Laboratory or specialized industrial facility		2615		x	x	x	x	x	x	x	x	x	x	p	p	
Assembly and construction-type plants	3000	2621		x	x	x	x	x	x	x	x	x	x	p	p	
Process plants (metals, chemicals, etc.)	3000	2622		x	x	x	x	x	x	x	x	x	x	p	p	
Construction-related businesses	7000			c	c	c	x	x	x	x	c	x	x	p	p	
Heavy construction	7400			x	x	x	x	x	x	x	x	x	x	p	p	
Machinery related	7200			x	x	x	x	x	x	x	x	x	x	p	p	
Special trade contractor	7300			c	c	c	x	x	x	x	x	x	x	p	p	
Automotive wrecking and graveyards, salvage yards, and junkyards				c	c	x	x	x	x	x	x	x	x	p	p	
Demolition business				c	c	x	x	x	x	x	x	x	x	p	p	
Recycling business				c	c	c	x	x	x	x	x	x	x	p	p	
Warehouse or storage facility Structure		2700		c	c	c	x	x	x	x	x	x	x	p	p	
Mini-warehouse		2710		c	c	c	x	x	x	x	x	x	x	p	p	
High-rise mini-warehouse		2720		x	x	x	x	x	x	x	x	x	x	p	p	
Warehouse structure		2730		c	c	c	x	x	x	x	x	x	x	p	p	
Produce warehouse		2740		p	p	p	x	x	x	x	x	x	x	p	p	

Use	Function	Structure	Activity	Ag/Ranch - 160	RUR- 40	RUR-F 20 ac	RUR-R 10 AC	RES-F 5 ac	RES-E 2.5 AC	RES-Comm-1 DU	TC .75	Mixed Use	Commercial	Industrial	P D * D	Special Conditions
Refrigerated warehouse or cold storage		2750		p	p	p	x	x	x	x	x	x	x	p	p	
Large area distribution or transit warehouse		2760		c	c	x	x	x	x	x	x	x	x	p	p	
Wholesale trade— durable goods	3510			x	x	x	x	x	x	x	x	x	x	p	p	
Wholesale trade nondurable goods	3520			x	x	x	x	x	x	x	x	x	x	p	p	
Food, textiles, and related products				c	c	c	x	x	x	x	x	x	x	p	p	
Wood, paper, and printing products				c	c	c	x	x	x	x	x	x	x	p	p	
Tank farms		2780		c	c	c	x	x	x	x	x	x	x	p	p	
Public assembly structures																
Performance theater			3110	c	c	x	x	x	x	x	x	x	x	p	p	
Movie theater			3120	x	x	x	x	x	x	x	x	x	p	p	p	
Amphitheater			3130	c	c	c	x	x	x	x	x	x	p	p	p	
Drive-in theaters			3140	c	c	x	x	x	x	x	x	x	p	p	p	
Indoor games facility		3200		x	x	x	x	x	x	x	x	p	p	p	p	
Amusement, sports, or recreation establishment not specifically enumerated	5300			c	x	x	x	x	x	x	x	x	c	p	p	
Amusement or theme park	5310			c	x	x	x	x	x	x	x	x	c	p	p	
Arcade	5320			x	x	x	x	x	x	x	x	c	p	p	p	
Miniature golf establishment	5340			c	c	c	x	x	x	x	c	p	p	p	p	
Fitness, recreational sports, gym, or athletic club	5370			p	p	p	c	c	c	c	c	p	p	p	p	
Bowling, billiards, pool, etc.	5380			x	x	x	x	x	x	x	c	p	p	p	p	
Skating rinks	5390			p	p	p	x	x	x	x	c	p	p	p	p	
Sports stadium or arena		3300		c	x	x	x	x	x	x	x	x	c	c	p	dci
Racetrack or raceway	5130			c	x	x	x	x	x	x	x	x	c	c	p	dci
Exhibition, convention or conference structure		3400		a	a	a	x	x	x	x	x	x	p	c	p	
Churches, temples, synagogues, mosques, and other religious facilities		3500		p	p	p	p	p	p	p	p	p	p	p	p	*
Covered or partially covered atriums and public enclosure		3700		a	a	a	x	x	x	x	x	c	p	p	p	
Passenger terminal, mixed mode		3810		p	p	p	p	p	p	p	p	p	p	p	p	*
Active open space/ athletic fields/golf courses	6340			p	p	p	c	c	c	c	c	c	x	p	p	*
Passive open space	6340			p	p	p	p	p	p	p	p	p	p	p	p	
Arts, entertainment, and recreation																
Active leisure sports and related activities			7100	p	p	p	c	c	c	c	c	c	p	c		
Camps, camping, and related establishments	5400			p	p	p	x	x	x	x	x	x	x	x		
Exhibitions and art galleries		4410		x	x	x	x	x	x	x	p	p	p	p		
Performing arts or supporting establishment	5100			c	c	c	x	x	x	x	p	p	p	p		
Theater, dance, or music establishment	5110			c	c	c	x	x	x	x	p	p	p	c		
Institutional or community facilities																
Hospitals		4110		x	x	x	x	x	x	x	x	x	p	x	p	
Medical clinics		4120		p	p	p	p	p	p	p	p	p	p	c	p	
Social assistance, welfare, and charitable services (not otherwise enumerated)	6560			p	p	p	p	p	p	p	p	p	p	p	p	
Child and youth services	6561			p	p	p	p	p	p	p	p	p	p	p	p	
Child care institution (basic)	6562			p	p	p	p	p	p	p	p	p	p	p	p	

Use	Function	Structure	Activity	Ag/Ranch - 160	RUR- 40	RUR-F 20 ac	RUR-R 10 AC	RES-F 5 ac	RES-E 2.5 AC	RES-Comm-1 DU	TC .75	Mixed Use	Commercial	Industrial	P D * D	Special Conditions
Child care institution (specialized)	6562			p	p	p	p	p	p	p	p	p	p	p	p	
Day care center	6562			p	p	p	p	p	p	p	p	p	p	p	p	
Community food services	6563			p	p	p	p	p	p	p	p	p	p	p	p	
Emergency and relief services	6564			p	p	p	p	p	p	p	p	p	p	p	p	
Other family services	6565			p	p	p	p	p	p	p	p	p	p	p	p	
Services for elderly and disabled	6566			p	p	p	p	p	p	p	p	p	p	p	p	
Animal hositals	6730			p	p	p	p	c	c	c	p	p	p	p	p	
School or university buildings (privately owned)		4200		p	p	p	c	c	c	c	p	p	p	p	p	
Grade school (privately owned)		4210		p	p	p	p	p	p	p	p	p	p	p	p	
College or university facility (privately owned)		4220		p	p	p	c	c	c	c	c	p	p	p	p	
Technical, trade, and other specialty schools	6140	4230		p	p	p	c	c	c	c	c	p	p	p	p	
Library building		4300		p	p	p	p	p	p	p	p	p	p	p	p	
Museum, exhibition, or similar facility	5200	4400		p	p	p	c	c	c	c	p	p	p	p	p	
Exhibitions and art galleries			4410	p	p	p	x	x	x	x	p	p	p	p	p	
Planetarium		4420		p	p	c	x	x	x	x	p	p	p	p	p	
Aquarium		4430		p	p	c	x	x	x	x	c	p	p	p	p	
Outdoor facility, no major structure			4440	p	p	p	c	c	c	c	c	c	p	p	p	
Zoological parks		4450		p	p	p	x	x	x	x	x	x	p	p	p	
Public safey related facility			4500	p	p	p	p	p	p	p	p	p	p	p	p	
Fire and rescue station			4510	p	p	p	p	p	p	p	p	p	p	p	p	
Police station			4520	p	p	p	p	p	p	p	p	p	p	p	p	
Emergency operation center			4530	p	p	p	p	p	p	p	p	p	p	p	p	*
Correctional or rehabilitation facility			4600	c	c	c	x	x	x	x	x	x	x	c	p	*
Cemetery, monument, tombstone, or mausoleum			4700	p	p	p	c	c	c	c	c	c	c	p	p	
Funeral homes			4800	p	p	p	x	x	x	x	p	p	p		p	
Cremation facilities			4800	p	p	p	x	x	x	x	x	x	x	p	p	
Public administration		6200		p	p	p	x	x	x	x	p	p	p	p	p	
Post offices		6310		p	p	p	p	p	p	p	p	p	p	p	p	
Space research and technology		6330		p	p	p	x	x	x	x	c	c	p	p	p	*
Clubs or lodges				c	c	c	c	c	c	c	c	c	c	c	c	*
Tranportation-related facilities																
Commercial automobile parking lots		5200		x	x	x	x	x	x	x	c	p	p	p	p	
Commercial automobile parking garages				x	x	x	x	x	x	x	c	p	p	p	p	
Surface parking, open		5210		a	a	a	a	a	a	a	a	a	a	a	p	
Surface parking, covered		5220		a	a	a	a	a	a	a	a	a	a	a	p	
Multistoried parking structure with ramps		5230		x	x	x	x	x	x	x	c	p	p	p	p	
Underground parking structure with ramps		5240		x	x	x	x	x	x	x	p	p	p	p	p	
Rooftop parking facility		5250		x	x	x	x	x	x	x	c	p	p	p	p	
Bus terminal		3830		x	x	x	x	x	x	x	c	p	p	p	p	
Bus stop shelter [3]		5300		p	p	p	p	p	p	p	p	p	p	p	p	

Use	Function	Structure	Activity	Ag/Ranch - 160	RUR- 40	RUR-F 20 ac	RUR-R 10 AC	RES-F 5 ac	RES-E 2.5 AC	RES-Comm-1 DU	TC .75	Mixed Use	Commercial	Industrial	P D * D	Special Conditions
Truck storage and maintenance facilities [3]		5400		x	x	x	x	x	x	x	c	c	c	p	p	
Truck freight transportation facilities [3]	4140			x	x	x	x	x	x	x	x	c	c	p	p	
Light rail transit lines and stops	4151			p	p	p	p	p	p	p	p	p	p	p	p	
Local rail transit storage and maintenance facilities [3]	4153			x	x	x	x	x	x	x	x	c	c	p	p	
Taxi and limousine service maintance and storage facilities	4155			x	x	x	x	x	x	x	c	p	p	p	p	
Taxi and limousine service dispatch facilities [3]				x	x	x	x	x	x	x	c	p	p	p	p	
Bus transportation storage and maintenance facilities [3]	4156			x	x	x	x	x	x	x	c	p	p	p	p	
Towing and other road service facilities, excluding automobile salvage, wrecking, or permanent vehicle storag	4157			x	x	x	x	x	x	x	c	c	c	p	p	
Long-distance or bulk pipelines for petroleum products, natural gas, or mineral slurry [7]	4170			c	c	c	c	c	c	c	c	c	c	c	p	
Courier and messenger service facilities [3]	4190			x	x	x	x	x	x	x	c	p	p	p	p	
Commercial airports		5600		c	c	c	x	x	x	x	x	x	x	c	p	
Private airplane runways and landing strips		5610		c	c	c	c	c	c	x	c	c	c	c	p	
Airport maintenance and hangar facilities		5620			c	c	x	x	x	x	x	x	x	c	p	
Heliport facility		5640		c	c	c	x	x	x	x	x	c	c	c	p	
Helistops				c	c	c	x	x	x	x	c	c	c	c	p	
Glideport, stolport, ultralight airplane, or balloonport facility		5650		c	c	c	x	x	x	x	x	c	c	c	p	
Railroad tracks, spurs, and sidings				p	p	p	p	p	p	p	p	p	p	p	p	
Railroad switching, maintenance, and storage facility		5700		c	c	x	x	x	x	x	x	x	x	p	p	
Railroad passenger station				p	p	p	p	p	p	p	p	p	p	p	p	
Railroad freight facility				c	c	x	x	x	x	x	x	c	c	p	p	
Utility and other nonbuilding structures																
Local distribution facilities for water, natural gas, and electric power		6100		p	p	p	p	p	p	p	p	p	p	p	p	
Telecommunications lines				p	p	p	p	p	p	p	p	p	p	p	p	
Electric power substations				c	c	c	c	c	c	c	c	c	c	p	p	
High-voltage electric power transmission lines [7]				c	c	c	c	c	c	c	c	c	c	c	p	
Dam		6220		c	c	c	c	c	c	c	c	c	c	c	p	
Livestock watering tank or impoundment				p	p	p	p	p	p	p	p	p	p	p	p	
Levee		6230		c	c	c	c	c	c	c	c	c	c	c	p	
Water tank (elevated, at grade, or underground)		6250		p	p	p	p	p	p	p	p	p	p	p	p	
Water wells, wellfields, and bulk water transmission pipelines		6260		p	p	p	p	p	p	p	p	p	p	p	p	
Water treatment and purification facility		6270		p	p	p	p	p	p	p	p	p	p	p	p	
Water reservoir		6280		c	c	c	c	c	c	c	c	c	c	c	p	
Irrigation facilities, including impoundments for on-site irrigation or acequia system irrigation		6290		p	p	p	p	p	p	p	p	p	p	p	p	
Wastewater storage or pumping station facility, lift stations, and collection lines		6310		p	p	p	p	p	p	p	p	p	p	p	p	
Solid waste landfill facility	4345	6320		c	c	c	x	x	x	x	x	x	x	c	p	
Composting facility		6330		c	c	c	x	x	x	x	c	x	x	c	x	
Solid waste collection transfer station	4343		3210	c	c	c	c	c	c	c	c	c	c	p		
Solid waste combustor or incinerator	4344			c	c	c	x	x	x	x	x	x	x	x	c	
Septic tank service, repair, and installation business	4346			x	x	x	x	x	x	x	c	c	p	p	p	
Household hazardous waste collection facility				c	c	c	x	x	x	x	c	c	c	p	p	

Use	Function	Structure	Activity	Ag/Ranch - 160	RUR- 40	RUR-F 20 ac	RUR-R 10 AC	RES-F 5 ac	RES-E 2.5 AC	RES-Comm-1 DU	TC .75	Mixed Use	Commercial	Industrial	P D * D	Special Conditions
Hazardous waste storage facility		6340		c	c	x	x	x	x	x	x	x	x	c	p	
Hazardous waste treatment and disposal facility				c	c	x	x	x	x	x	x	x	x	c	p	
Sewage treatment plant and disposal facilities		6350		c	c	c	c	c	c	c	c	c	c	c	p	
Gas or electric power generation facility		6400		c	c	x	x	x	x	x	x	x	x	c	p	
Communication towers		6500		p	p	c	c	c	c	c	c	c	c	c	p	
Radio, television, or wireless transmitter		6510		p	p	c	x	x	x	x	c	c	c	p	p	
Weather stations or transmitters		6520		p	p	p	c	x	x	x	c	p	p	p	p	
Environmental monitoring station (air, soil, etc.)		6600		p	p	p	p	p	p	p	p	p	p	p	p	
Commercial solar energy production facility				c	c	c	x	x	x	x	c	c	c	p	p	
Geothermal production facility		6450		c	c	c	x	x	x	x	x	c	c	p	p	
Telecommunications and broadcasting station	4230			p	p	p	x	x	x	x	c	p	p	p	p	
Highway rest stops and welcome centers		6930		p	p	p	p	p	p	p	p	p	p	p	p	
Fountain, sculpture, or other similar decorative structures		6950		p	p	p	p	p	p	p	p	p	p	p	p	
Permanent outdoor stage, bandstand, or similar structure		6960		x	x	x	x	x	x	x	c	c	c	x	p	
Agriculture, forestry, and conservation/open space [4]																
Grain silos and other storage structure for grains and agricultural products		8100		p	p	p	a	a	a	a	p	a	a	p	p	
Animal production that includes slaughter	9300			c	c	c	x	x	x	x	x	x	x	x	x	
Livestock pens or hog houses		8200		p	p	c	x	x	x	x	c	x	x	x	x	
Commercial greenhouses		8500		p	p	p	c	a	a	a	c	p	p	p	p	
Nurseries and other growing of ornamental plants [4]				p	p	p	p	p	p	p	p	p	p	p	p	
Stables and other equine-related facilities		8240		p	p	p	c	c	x	x	c	c	p	p	p	
Kennels and commercial dog breeding facilties		8700		p	p	p	c	c	x	x	c	c	p	p	p	
Apiary and other related structures		8700		p	p	p	p	p	p	p	p	p	p	p	p	
Crop production [5]	9100			p	p	p	p	p	p	p	p	p	p	p	p	
Display or sale of agricultural products raised on the same premises				p	p	p	a	a	a	a	a	p	p	p	p	
Forestry and logging operations [6]	9300			p	p	p	p	p	p	p	p	p	p	p	p	
Game preserves and retreats [4]	9400			p	p	p	c	c	c	c	c	c	c	c	p	
Support business and operations for agriculture and forestry				p	p	p	a	a	a	a	c	p	p	p	p	
Parks, open space areas, conservation areas, and preservation areas				p	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	p	p	p	p	
Concentrated animal feeding operation		8310		c	c	c	x	x	x	x	x	x	x	x	x	
Cattle ranching, and the grazing or cattle or other livestock [7]		8230		p	p	p	p	p	p	p	p	p	p	p	p	
Dairy farms		8210		p	p	c	x	x	x	x	x	x	x	x	x	
Other farm and farming-related structures		8900		p	p	p	a	a	a	a	p	a	a	a	p	
Poultry farms and poultry production facilities		8220		p	p	c	x	x	x	x	x	x	x	x	x	
Sheds, farm buildings, or other agricultural facilities		8000		p	p	p	a	a	a	a	a	a	a	a	p	
Animal waste lagoons		8420		c	c	c	x	x	x	x	x	x	x	x	x	
Mining and extraction establishments																
Oil and natural gas exploration or extraction [1]	8100			c	c	c	x	x	x	x	x	x	x	c	x	

Use	Function	Structure	Activity	Ag/Ranch - 160	RUR- 40	RUR-F 20 ac	RUR-R 10 AC	RES-F 5 ac	RES-E 2.5 AC	RES-Comm-1 DU	TC .75	Mixed Use	Commercial	Industrial	P D * D	Special Conditions
Metallic minerals mining [1]	8200			c	c	c	x	x	x	x	x	x	x	c	x	
Coal mining [1]	8300			c	c	c	x	x	x	x	x	x	x	c	x	
Nonmetallic minerals mining [1]	8400			c	c	c	x	x	x	x	x	x	x	c	x	
Quarrying and stone cutting [1]	8500			c	c	c	x	x	x	x	x	x	x	c	x	
Sand and gravel mining [1]				c	c	c	x	x	x	x	x	x	x	c	x	
*** Subject to inclusion in approved list of uses that is part of the master plan for the Planned Development District.**																

OTHER NOTES:

[5] The growing of crops and ornamental plants per se should allowed anywhere, either for profit or for personal use. Regulating crop and ornamental plant growing would be more trouble than it is worth - doing so would be almost impossible to enforce, and besides, very few people object if the person next door is growing crops or ornamental plants in the outdoors.

[6] It is also recommended that the County not regulate bona fide forestry and logging operations, or vegetation removal in conjunction with bona fide agricultural activities, because of the difficulties involved in permitting and enforcement related to same. The County should, however, regulate tree and vegetation removal that occurs in conjunction with development, and prohibit pre-development clearing that is simply an attempt to skirt vegetation and tree removal regulations

[7] The same arguably applies to grazing of cattle and other livestock. The County could try to adopt regulations concerning the number and density of livestock and other farm animals that can be kept on residential lots and smaller parcels, which local governments often do; however, this would probably be very difficult and complicated to enforce in this county. Better to leave this task to homeowners associations and private restrictive covenants, although master plans for planned development districts should address the keeping of livestock and other farm animals in the list of approved uses for the district.