

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 ~~police~~law enforcement, zoning, planning, environmental, fiscal and public nuisance powers for the health, safety and general welfare of the County and ~~applies to all areas within the exterior boundaries of the County that lie outside of the incorporated boundaries of a municipality without exceptionits residents.~~

1.3. EFFECTIVE DATE. ~~This ordinance~~The SLDC shall become effective ~~ninety (90)~~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, ~~police and fire, school, library, storm water~~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 ~~no new~~ 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 ~~and Services Program~~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; ~~impact development~~ fees; and other appropriate mitigation fees; and conditions ~~and exactions~~ that are required as ~~ad hoc~~ 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 ~~and new urbanism~~ 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 ~~association's~~ 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 ~~enable~~ residents within a wide range of economic levels and age groups ~~is available~~;

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, ~~Specific~~-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 ~~climate change~~, 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.

~~Discretionary Development Approval Projects, as defined by the SLDC;~~

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

~~A General, Area, Specific, District and Community Plan Consistency Report demonstrating~~

~~1.1.1.1.1. —1. Demonstrated consistency with ~~such~~the SGMP goals, objectives, policies and strategies and with ~~and~~ applicable state and federal statutes and regulations;~~

~~An Environmental Impact Report (“EIR”) analyzing adverse effects and impacts relating to, Area, District and or stemming from: wildlife and vegetation natural habitats and corridors; flood plains, floodways, stream corridors and wetlands; steep slopes and hillsides; air and water pollution; climate change, traffic safety and congestion; excessive energy consumption from vehicle miles traveled; archeological, historical and cultural artifacts and resources reflecting the heritage of the area; toxic chemical pollution and related diseases and conditions affecting the health and safety of current and future residents; open space and scenic vistas~~Community Plans;

~~A Fiscal Impact Assessment (“FIA”) describing the effects~~

~~1.1.1.1.2. —2. Certain Studies, Reports and ~~impacts~~Assessments (SRAs), depending upon the scope 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;~~

~~1.1.1.1.3. —An Adequate Public Facilities and Services Assessment (“APFA”) indicating whether public facilities and services, taking into account the County’s Capital Improvement and Service Program, are adequate to service the proposed development project;~~

~~1.1.1.1.4. —A Water Availability Report to determine the permanent availability of and impacts to groundwater and surface water resources;~~

~~A~~in the application, which SRAs may include: a Traffic Impact Assessment, providing information necessary to assess adverse transportation effects and impacts of traffic generated by proposed development projects, including isolated and cumulative adverse effects and impacts to the traffic shed and traffic capacity, the passage of public safety and emergency response vehicles and any contribution to hazardous traffic conditions by vehicles going to and from the project site; (“TIA”); an Adequate Public Facilities Assessment (“APFA”); a

Fiscal Impact Assessment (“FIA”); a Water Service Availability Report (“WSAR”); and/or an Environmental Impact Report (“EIR”).

3. In the case of developments of county-wide impact (“DCI”);

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

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, police~~ law enforcement and emergency response, ~~storm water~~ 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, ~~Specific,~~ District and Community ~~Plan~~ 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, ~~2004-04~~, 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. ~~Existing or future adopted~~ Adopted Area, ~~Specific~~, 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.

Amendments to the SLDC.

1.9.2. Any amendment to the SLDC shall be ~~required to 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—~~of the SLDC~~, 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: ~~a rezoning approval; establishment~~ of an overlay zone; ~~amendment to the SLDC; development of countywide impact; an~~ amendment to the SGMP or ~~General Plan, an amendment to an Area, Specific~~ District or Community Plan ~~or zoning ordinance; a development agreement;~~ a conditional ~~or special-use~~ permit; variance; ~~building or grading permit or road construction ; or development~~ permit; ~~certificate of occupancy;~~ 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 ~~of County Commissioners~~, 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 ~~of County Commissioners~~, 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.

~~1.1.2.~~

1.11.7. Previously Approved Subdivisions. Reserved.

~~**1.12. CONCURRENT PROCESSING.** — One of the principal purposes of the SLDC is to encourage applicants. Applicants are encouraged to concurrently submit an application applications for multiple development approvals on a single project that are typically handled consecutively in order to facilitate, speed up and make more efficient the development approval process. Any However, each application must individually comply with all applicable provisions of the SLDC, and if any individual application which includes requests for two request is rejected or more development approvals cumulatively comply with the requirements of the SLDC for each type of development conditioned in such a way that the subsequent (in approval applied for prior to engaging in that type of development. The County may issue a development order denying, approving, approving with conditions and mitigation requirements, approving any part of an) application and approving other parts in phases or denying other parts. This section request cannot reasonably proceed, then the processing of the subsequent application shall not apply to applications seeking approval but that do not comply with the applicable zoning 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 ~~of the SLDC~~ 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 ~~General~~ **SGMP**, Area, ~~Specific~~, 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 ~~concurrent~~ **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, ~~together with a major site plan, preparation of SRAs and~~ meeting all requirements of the SLDC for such discretionary development ~~approvals~~ **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 ~~General~~, Area, ~~Specific~~, 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, ~~Specific~~ or Community plan, the proposed amendment shall be denied unless a concurrent application for an amendment to the ~~General~~SGMP, Area, District, ~~Specific~~ 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 ~~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, ~~Specific~~ 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, ~~Specific~~ 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 ~~SLDC~~ zoning district, substantially changed conditions in the area surrounding the property, or to effectuate the important findings of § 1.15.7.2 ~~of the SLDC~~, and is supported by the goals, policies, and strategies of the SLDC, the SGMP, Area, District, ~~Specific~~ 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.

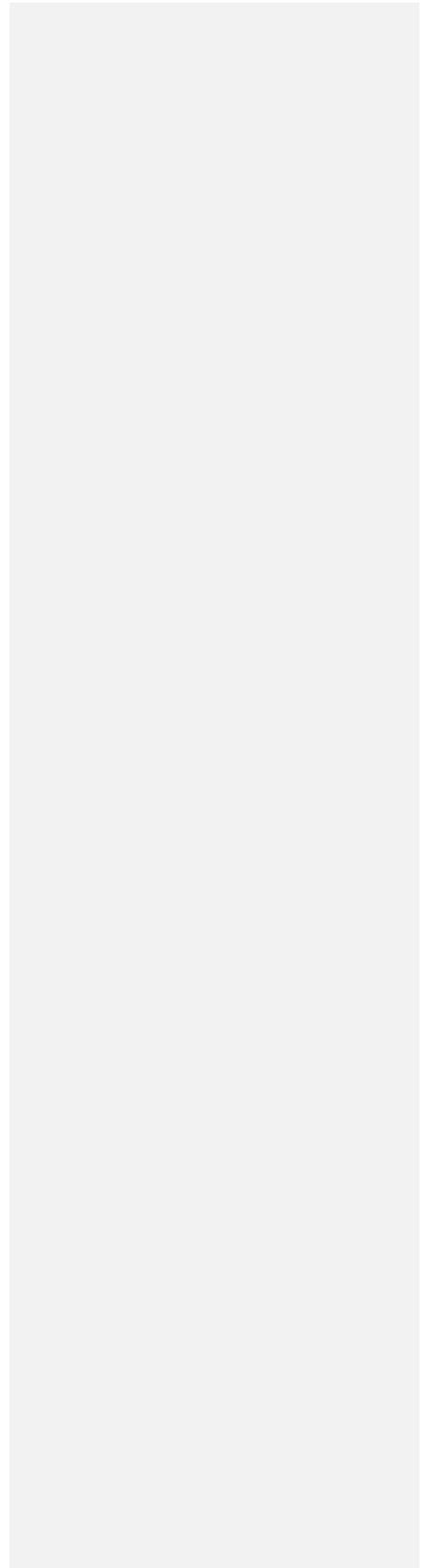
2. Withdrawal after Planning Commission Hearing. No SLDC text or map amendment application shall be received or filed if, during the previous twelve (12) months, an application was received or filed and withdrawn after a public hearing has been held by the Hearing Officer; unless the owner/applicant 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~~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~~ Any subsequent amendment to the SLDC text or map requires a new application and a new fee ~~pursuant to Appendix C of the SLDC~~, 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.

2.1. PLANS AND PLAN AMENDMENTS. ~~This chapter establishes the authority to adopt certain County land use plans in addition to providing a uniform procedure for the amendment of such plans.~~ This chapter establishes requirements and procedures for ~~proposed amendments to the community participation and planning including adopting and amending certain County land use plans, including the SGMP, or any plan element contained within the SGMP or adoption or amendment of and~~ Area, ~~Specific~~, District or Community ~~Plan~~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.

Specific 2.1.2. Area Plans.

- 2.1.1.1. ~~A specific plan implements the SGMP with respect to a particular property or properties and accompanies the development approval of individual property or properties.~~

~~2.1.1.2. — A specific plan differs from a General, Area, District, or Community plan in the following ways:~~

~~2.1.1.2.1. — A specific plan is not a component of the SGMP, although a specific plan must be consistent with the SGMP. A specific plan is therefore a separately adopted general plan implementation document.~~

~~2.1.1.2.2. — The purpose of a specific plan is the systematic implementation of the SGMP. Neither Area, District or Community plans have an emphasis on implementation. A specific plan is used to refine the policies of the SGMP relating to a defined geographic area.~~

~~2.1.1.3. — A specific plan shall be required for any nonresidential development, a subdivision within SDA 2 or 3, or a planned development district.~~

~~2.1.1.4. — A specific plan shall conform to the base zoning district and all allowable overlay and planned districts permitted in the base zoning district for the land contained within the specific plan area and shall conform to the procedures set forth in the SLDC. No amendment to the text or map of a base zoning district shall be approved unless it meets the standards for plan amendments set forth in § 2.1.6 of this Chapter. Plan amendments and zoning, text and map amendments may be included within a specific plan provided they comply with the standards of §§ 2.1.2.6.3 and 1.15.7.2 of the SLDC. The adoption of a specific plan does not eliminate the need for obtaining all other SLDC required discretionary and ministerial development approvals prior to any construction, land alteration or use of the property as authorized in the specific plan.~~

~~2.1.1.5. — Amendments to the text or maps of a specific plan shall be processed in the same manner as for initial adoption of the specific plan.~~

~~2.1.1.6. — A specific plan shall include text and a diagram or diagrams that specify all of the following in detail:~~

~~2.1.1.6.1. — The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan;~~

~~2.1.1.6.2. — The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan;~~

~~2.1.1.6.3. — The standards and criteria by which development will proceed and standards for the conservation, development, and utilization of natural resources, where applicable;~~

~~2.1.1.6.4. — A program of implementation measures from the CIP including regulations, programs, public works projects, and financing measures necessary to carry out subparagraphs (1), (2), and (3);~~

~~2.1.1.6.5. — The distribution, number and type of residential units and nonresidential structures, floor area ratio (FAR) of nonresidential structures, area, height and yard requirements, parking, location, timing, phasing and extent of the uses of land including open space within the area covered by the specific plan; the proposed distribution, location, interconnectivity, bicycle and pedestrian lanes, extent and intensity of major components of public and private transportation, sewage, water, storm water management, solid waste disposal, energy, parks, recreation facilities, sheriff, fire and emergency response, trails and other adequate public facilities and services proposed to be located within the area covered by the specific plan and needed to support the land uses described in the specific plan;~~

~~2.1.1.6.6. — Sustainable design and improvement standards and criteria by which development will proceed, and standards for the conservation of agricultural, ranch, open space, scenic vistas, habitats and habitat corridors, ground and surface water, archaeological, cultural, historical and environmentally sensitive lands and natural resources;~~

~~2.1.1.6.7. — A plan of implementation and action measures, including all of the development approvals and land use techniques that will be needed to achieve build out of the area, including but not limited to zoning, subdivision approval, supplemental use permit, planned districts, supplemental and accessory uses, variances, transfers of development rights (TDRs) or purchase of development rights (PDRs), creation of homeowner associations, assessment and public improvement districts, affordable housing, public improvements and services, impact fees, dedications and other financing measures, utilization of a Capital Improvement Program (CIP) and Official Map techniques, development agreements, and conditions, covenants, and restrictions necessary to carry out the goals, objectives, policies and standards of the SGMP, Area District, or Community plan and the purposes, intent, findings and requirements of the SLDC and other applicable state and federal law; and~~

~~2.1.1.6.8. — An analysis of the consistency of the specific plan to the SGMP, and any applicable Area, District or Community plan, and all of the Studies, Reports and Assessments (“SRAs”) required pursuant to Chapter 7 of the SLDC.~~

~~2.1.1.6.9. — The specific plan shall include a statement describing the relationship of the specific plan to the SGMP and how the specific plan is consistent with the SGMP.~~

~~2.1.2. Area Plan. —~~

~~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~~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 ~~Plan~~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 ~~Plan~~ Plans.

2.1.4.1. A Community Plan ~~is an amendment to the SGMP that~~ 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 ~~planned~~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 of 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; ~~however, all decisions of the planning committee shall be made by consensus.~~

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:

~~1~~**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;

~~2~~**b.** Describe and analyze the planning framework;

~~3~~

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

~~4~~

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

- ~~5~~
e. Prepare a description of how the community fits within the development patterns within the context of the overall County;
- ~~6~~
f. Analyze the existing land use and zoning within the community and create a map depicting existing land uses and development patterns;
- ~~7~~
g. Analyze the local cultural and natural resources, including water quality and availability;
- ~~8~~
h. Examine the local infrastructure, including utilities, telecommunications, roads and traffic; and
- ~~9~~
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 ~~subsection 2.1.5.5.10~~ § 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.

~~2.1.2.1.~~ **2.1.4.8. Implementation.**

Following approval of a community plan, County staff shall develop the appropriate ~~ordinance or resolution~~ overlay district(s) to implement the Community Plan.

~~2.1.2.2.~~ **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.

2.1.3. PLAN AMENDMENTS.

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, ~~Specific,~~ District or Community Plans. ~~An owner within the area encompassed by the plan may initiate proposed amendments to a specific plan.~~ Proposed amendments to a community plan shall be accomplished through the procedure set forth above. ~~Where an owner is the initiator, the owner may combine an application for an amendment to a specific plan with an application for development approval, and such combined applications shall be processed concurrently.~~

2.1.5.2. No amendment to the future land use maps of the SGMP, Area, District or Community Plan or the zoning map ~~of the SLDC,~~ 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~~ ~~chapter~~ shall be processed according to the ~~Procedures~~ procedures set forth in Chapter 4 ~~of the SLDC.~~

2.1.5.3. An application to amend any plan described in this ~~Chapter~~ ~~chapter~~ shall be filed with the Administrator ~~and shall contain the information set forth in Appendix B of the SLDC.~~ 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 ~~§4.10 of the SLDC.~~ ~~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 ~~in accordance with the procedures set forth in §4.17 of the SLDC.~~

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, ~~Specific~~, District or Community plan amendment or SLDC zoning map amendment will be approved unless it is consistent with the SGMP or the applicable Area, ~~Specific~~, District or Community Plan.

2.1.5.7. The applicant, and any person that could have proposed a plan amendment under this ~~Chapter~~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, ~~Specific~~, 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, ~~Specific~~, District or Community plan, and the zoning map ~~of the SLDC~~, every three (3) to five (5) years.

2.1.4. CONSISTENCY.

2.1.6. Consistency. The SLDC and all amendments thereto shall be consistent with the SGMP and applicable Area, ~~Specific~~, District or Community Plans, the CIP and the Official Map. ~~An amendment to the text or zoning map of the SLDC is consistent and in accordance and complies with the goals, policies, and strategies contained in the SGMP, Area, Specific, District or Community Plan, the CIP and the Official Map. Any amendments to the SLDC, including but not limited to development approvals, shall be consistent with the following:~~

~~2.1.4.1. The adopted SGMP, as it may be amended from time to time, in effect at the time of the request for amendment;~~

~~2.1.4.2. An adopted Area, Specific, District or Community plan;~~

~~2.1.4.3. The Official Map; and~~

~~2.1.4.4. The CIP.~~

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, ~~specific~~ 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

~~2.1.4.5.~~

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:

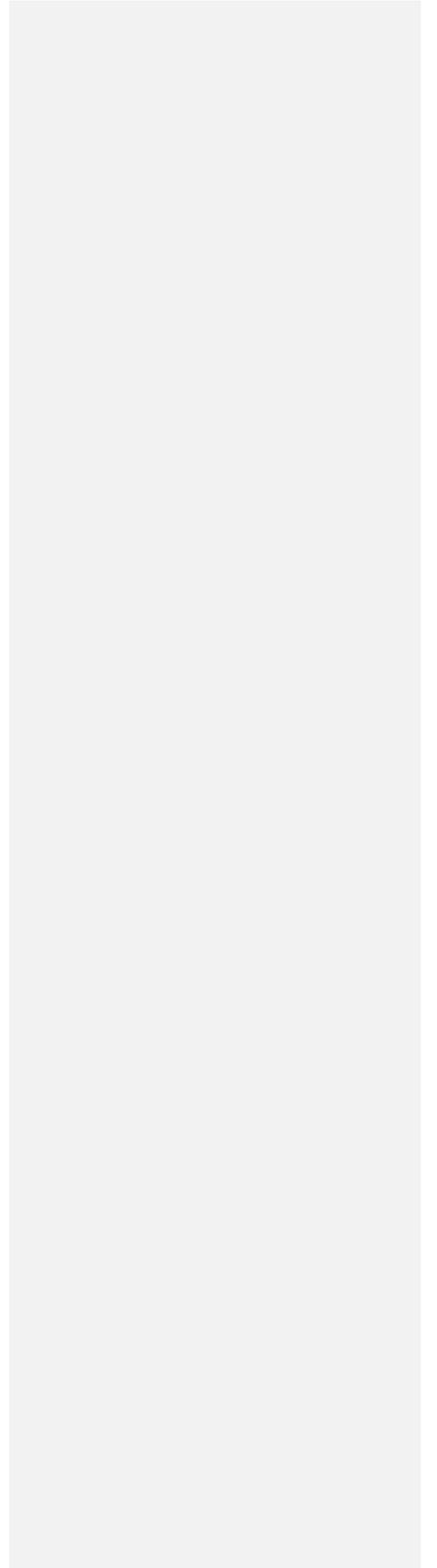
1. The name, address, telephone number and e-mail address of the RO, and the name, address and telephone of the person, as applicable, who will be designated by the RO to receive notice from the County and to represent the RO in dealings with County staff;
2. A map or written description of the organization’s 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, ~~Specific~~, 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, ~~Specific~~, District or Community Plan;

3.2.1.2. To initiate legislative amendments to the text and maps of the SLDC including ~~the zoning map~~ ~~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 ~~an~~ ~~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, ~~impact~~ ~~development~~ fees, money-in-lieu of land, affordable housing fees, ~~other exactions~~ 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 ~~as set forth in § 3-3.2.3 of this Chapter.~~

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 ~~Improvements~~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 ~~at~~ascertain discretionary development approvals ~~specified in Section 4.6 of this SLDC~~ subject to appeal to the Board;

3.3.2.4. To hold public hearings and recommend action on an Area, ~~Specific~~-District or Community Plan, preliminary and final development orders, and ~~—quasi-judicial discretionary development applications—~~~~specified in § 4;~~

~~3.3.2.5.7—of this SLDC;~~ 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.

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

3.3.4. Conduct of Planning Commission Business.

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

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

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

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

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

3.4. ADMINISTRATOR.

3.4.1. Appointment. — A person shall be appointed by the County Manager to serve as the Administrator. Where the SLDC assigns a responsibility to the Administrator, ~~with the consent of the County Manager,~~ the Administrator may delegate that responsibility to any ~~other official, employee or consultant~~ 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, ~~Specific,~~ 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:

~~3.1.1.1.1. — a major subdivision;~~

~~1. a variance;~~

~~2. a beneficial use determination;~~

~~3. a rezoning;~~

~~3.1.1.1.2. — site specific amendments to the SGMP, an Area, Specific, District or Community Plan;~~

~~4. a planned development district;~~

~~3.1.1.1.3. a major site plan;~~

~~4.~~

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

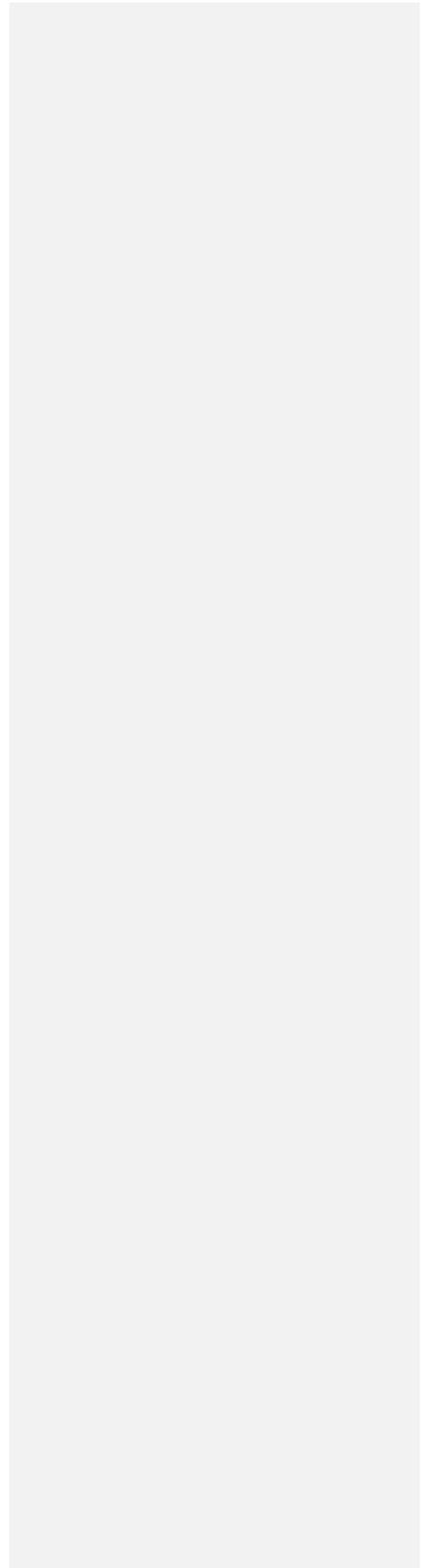
~~6.~~ a Development of County-Wide Impact (DCI).

~~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. ~~The format of this Chapter is designed~~ 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, administrative review for completeness review, and review for compliance with SLDC standards, through public hearings, determination and appeal.~~ The ~~provisions~~ first part of this chapter ~~are intended to implement~~ describes the standards and ~~be consistent with the SGMP~~ 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~~ 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.

~~3.2. COMMON PROCEDURES.~~ ~~This Chapter describes the common procedure to process an application for a development approval. Requirements for specific types of applications regarding the procedure to be employed are set out in Tables 4.1 Review Process and 4.2. Approval Process.~~

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, Specific, District or Community Plan; adoption of or any amendment to the text or zoning map of the SLDC, the CIP or the Official Map; creation of a planned development district (PDD); an overlay zoning district classification; 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 of the SLDC. 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 and typically occur late in the process.~~ A public hearing is not required for action on an application for ministerial development approval.

4.4. PROCEDURAL REQUIREMENTS.

3.1.1. 4.4.1. In General. ~~This Section describes the procedural elements common to all the various types of applications. The specific procedures for reviewing various applications differ.~~ Generally, the procedures for all applications have ~~the following common elements: Pre-~~ although individual procedures may not apply to every application TAC meeting and 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 by the Administrator that the application is complete or incomplete;~~

3.2.1.1. ~~Required public notice and publication;~~

3.2.1.2. ~~Staff review, with assistance of the Technical Advisory Committee;~~

4.4.1.4. ~~As appropriate, referral of application to State review agencies; for review and response of the State review agencies; receipt of favorable or unfavorable opinion; subsequent proceedings;~~

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 Planning Commission, Board or 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 a variance or beneficial use or value determination (BUD).~~

3.2.2. Procedural Requirements Table

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: ~~Procedural Requirements~~.

Table 4-1: Procedural Requirements

	Pre-Application TAC Conference	Pre-Application Neighborhood Meeting	Application Submittal	Studies, Reports and Assessments (SRAs)	Completeness Review	Agency Reviews and Opinions	Additional Information and Subsequent Proceedings
Development Permit	No	No	Yes	No	Yes	No	As Needed
Floodplain Development Permit	Yes	No	Yes	No	Yes	No	As Needed
Site Development Plan	Yes	Yes	Yes	Yes	Yes	Yes*	As Needed
Supplemental Use Permits	Yes	No	Yes	No	Yes	Yes	As Needed
Temporary Use Permits	No	No	Yes	No	Yes	Optional	As Needed
Zoning Statement	No	No	Yes	No	No	Optional	As Needed
Exemptions, Divisions, Other Plat Reviews	No	No	Yes	No	Yes	Optional	As Needed
Family Transfer	No	No	Yes	Yes	Yes	Optional	As Needed
Vacation Plat	No	No	Yes	No	Yes	Optional	As Needed
Minor Subdivision Plats	No	No	Yes	Yes	Yes	Yes	As Needed
Major Preliminary Subdivision Plats	Yes	Yes	Yes	Yes	Yes	Yes	As Needed
Major Final Subdivision Plats	Yes	No	Yes	Yes	Yes	Yes	As Needed
Variances	Yes	As Needed	Yes	No	Yes	Optional	As Needed
Appeal of Administrator	No	No	Yes	No	Yes	Optional	As Needed
Appeal of Planning Commission	No	No	Yes	No	Yes	Optional	As Needed
Specific Plan	Yes	Yes	Yes	Yes	Yes	Optional	As Needed
Area Plan	Yes	Yes	Yes	No	No	Optional	As Needed
District Plan	Yes	Yes	Yes	No	No	Optional	As Needed
Planned Development District	Yes	Yes	Yes	Yes	Yes	Yes	As Needed
Community Plan	Yes	Yes	Yes	No	Yes	Optional	As Needed
SCMP or Map Amendments	Yes	No	Yes	No	No	Optional	As Needed
SLDC or Map Amendment	Yes	No	Yes	No	No	Optional	As Needed
Rezoning	Yes	Yes	Yes	Yes	Yes	Yes	As Needed
Developments of Countywide Impact	Yes	Yes	Yes	Yes	Yes	Yes	As Needed
Beneficial Use Determination	No	No	Yes	No	Yes	No	No

Comment [e1]: Table Deleted.

Table 4-1: Procedural Requirements by Application Type.

Application Type	Application Requirements				Review/Approval Process				
	Discretionary Review?	Pre-application meeting	Pre-application neighborhood meeting	Studies, reports, assessments	Agency review	Approval by Administrator	Hearing Required?		
							Hearing Officer	Planning Commission	E-OC
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*
Variance 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 (rezone)	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.

3.2.3. 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. ~~All~~The following entities and persons ~~entitled to notice of the pre-application meeting~~ shall be invited by a letter sent first class mail, return receipt requested. ~~Persons invited shall include all of the following:~~

1. The applicable CO and/or RO ~~(see § 2.2).~~
2. Property owners entitled to notice of the application as required in ~~Section § 4.4.6;~~

4.4.4.2. Where Held. ~~The~~ meeting shall be held at a convenient meeting space ~~nearest to~~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~~structures; the proposed uses for the property; the number of dwelling units and ~~floor area ratio (“FAR”)~~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. ~~The~~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~~location of ~~at the meeting or~~ meetings;
2. a list of persons and organizations invited to the ~~pre-application~~ 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; ~~a summary of identified at the meeting, including~~ how the ~~owner~~ applicant has addressed or intends to address ~~the~~ concerns, issues, and problems expressed but not resolved during the process including those that ~~whether~~ the applicant is unable to address, ~~and specifically including 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 ~~the~~ any pre-application ~~meeting~~ 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 issue a development order deeming the application complete or incomplete.~~ 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. ~~If and the application, together with the submitted materials, is determined to be incomplete, the development order issued by the Administrator~~ applicant shall specify 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.

~~**Status of Order on Completeness.**~~**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. ~~The development order on completeness, issued by the Planning Commission upon any appeal, shall be final and not be appealable to the Board.~~

4.4.6.5. 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.**~~ ~~The~~ 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. ~~The review agencies shall provide a response to the Administrator within thirty (30) working days of receipt.~~

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.

3.2.4. Procedures for Approval Table. The procedures for approval of applications are set forth in Table 4-2.

Table 4-2: Procedures for Approval

	Approval by Administrator	Hearing before Hearing Officer	Hearing before Planning Commission	Hearing before BCC	Issuance of Development Order	L=Legislative QJ = Quasi Judicial, M = Ministerial
Development Permit	Yes	No	No	No	Yes	M or QJ
Site Development Plan	Yes	No	No	No	Yes	QJ
Supplemental Use Permits	See Table 1 in Chapter 11				Yes	M or QJ
Temporary Use Permits	Yes	No	No	No	Yes	M
Zoning Statement	Yes	No	No	No	Yes	M
Exemptions, Divisions, Other Plat Reviews	Yes	No	No	No	Yes	M or QJ
Family Transfer	Yes	No	No	No	Yes	M
Vacation Plat	No	No	No	Yes	Yes	QJ
Minor Subdivision Plats	No	No	No	Yes	Yes	QJ
Major Preliminary Subdivision Plats	No	No	No	Yes	Yes	QJ
Major Final Subdivision Plats	Yes	No	No	No	Yes	M
Variances	No	Yes	Yes	No	Yes	QJ
Appeal of Administrator	No	No	Yes	No	Yes	QJ
Appeal of Planning Commission	No	No	No	Yes	Yes	QJ
Specific Plan	No	Yes	Yes	Yes	Yes	L
Area Plan	No	Yes	Yes	Yes	Yes	L
District Plan	No	Yes	Yes	Yes	Yes	L
Planned Development District	No	Yes	Yes	Yes	Yes	L
Community Plan	No	Yes	Yes	Yes	Yes	L
SGMP or Map Amendments	No	Yes	Yes	Yes	Yes	L
SLDC or Map Amendment	No	Yes	Yes	Yes	Yes	L
Rezoning	No	Yes	Yes	Yes	Yes	QJ
Developments of Countywide Impact	No	Yes	Yes	Yes	Yes	QJ
Beneficial Use Determination	No	No	No	Yes	Yes	QJ

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 ~~of County Commissioners.~~

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 ~~this ordinance~~ 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 ~~on, denial or abandonment of~~ an Application, another Application shall not be filed within ~~one year~~ 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~~ chapter.

~~3.2.5. Notice of Appeal. _____ A notice of appeal shall be filed with the Administrator within thirty (30) days after the development order is filed in the office of the Administrator and mailed to the owner/applicant. The appeal shall contain a written statement of the reasons as to why the appellant claims the final decision is erroneous.~~

~~3.2.6. Time Limit. _____ Consistent with notice, the Board or Planning Commission shall place the appeal on the next available agenda. Any appeal to the Board shall be decided within thirty (30) days from the time the appeal is filed with the Administrator.~~

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 ~~five (5)~~ **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~~ **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.

~~Supplemental Notice.~~ **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.

~~3.2.6.1.~~

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 ~~street or~~ road address of the property subject to the application or, if the ~~street or~~ 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, ~~floor area ratios (FAR)~~, 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~~ 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, ~~specific~~, 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, ~~specific~~ 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. _____
5. _____

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 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.

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