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Commissioner, District 1

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Commissioner, District 2

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Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

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Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: February 22, 2019

To: Board of County Commissioners

From: Robert Griego, Planning Manager *RG*
Paul Olafson, Planning Projects Manager
Jacob Stock, Community Planner

Via: Katherine Miller, County Manager
Penny Ellis Green, Growth Management Director *PEG*

RE: **Request Publication of Title and General Summary of an Ordinance Amending The Sustainable Land Development Code, Ordinance No. 2016-9, To Restate Chapter 11 (Developments Of Countywide Impact), Adopt Regulations For Mineral Resource Extraction And Processing, And Add Definitions To Appendix A**

Santa Fe County staff have drafted amendments to Chapter 11 Developments of Countywide Impact (DCIs) of the Sustainable Land Development Code (SLDC) to adopt regulations for mineral resource extraction and processing and add definitions to Appendix A. These amendments to Chapter 11 establish regulations for Mineral Resource Extraction and Processing and add definitions to Appendix A of the SLDC.

BACKGROUND:

Staff has gone through an extensive stakeholder and public review process to consider amendments to Chapter 11 of the SLDC. The current Chapter 11 reserves section 11.14 for mineral and resource extraction and processing regulations. Staff has worked with interested stakeholders to review and develop proposed mining and resource extraction regulations. Additionally, staff have conducted an internal review process and consulted with outside experts and regulatory agencies to develop the proposed regulations.

Staff presented a draft of the proposed amendments to the Board on January 8, 2019 which initiated the public comment period. Public meetings were conducted in the four Growth Management areas during the month on January at the following locations:

- Tuesday, January 22— Edgewood Fire Station
- Thursday, January 24 - Nancy Rodriguez Community Center

- Monday, January 28— Turquoise Trail Elementary School
- Thursday, January 31 - Nambe Community Center

Staff have incorporated the comments and recommendations of stakeholders as appropriate. Staff has also conducted additional research into regulatory best practices and received guidance from regulatory and legal experts as part of the public review of the draft regulations for mineral resource extraction and processing. Attached with this memo is a matrix which outlines the comments received, analysis of the comments and any proposed actions/changes to the based on the comments.

The proposed regulations aim to complement state and federal requirements by addressing existing deficiencies in those regulations and enhancing environmental protections. Definitions for mineral and resource extraction were also developed as part of this process which are proposed to be added to Appendix A of the SLDC.

Specifically, the proposed regulations focus on the following elements:

- Protection of water resources;
- Adequate financial assurances;
- Requirements that applicants sufficiently demonstrate that proposed mining activities will not pose environmental or public health risks in the present or long-term; and
- Additional changes to Chapter 11 for all DCI's to ensure consistency in application and permitting review

RECOMMENDATION:

Staff recommends that the Board direct staff to publish Title and General Summary of an Ordinance Amending the Sustainable Land Development Code, Ordinance No. 2016-9, To Restate Chapter 11 (Developments Of Countywide Impact), Adopt Regulations For Mineral Resource Extraction And Processing, And Add Definitions To Appendix A

EXHIBITS

- Exhibit A: Draft Ordinance to amend the SLDC
- Exhibit B: SLDC - Chapter 11 Developments of Countywide Impact (DCIs) draft
- Exhibit C: Chapter 11 Public Comments Matrix
- Exhibit D: SLDC - Appendix A Definitions

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY



ORDINANCE NO. 2019-_____

AN ORDINANCE
AMENDING THE SUSTAINABLE LAND DEVELOPMENT CODE, ORDINANCE NO.
2016-9, TO RESTATE CHAPTER 11 (DEVELOPMENTS OF COUNTYWIDE IMPACT),
ADOPT REGULATIONS FOR MINERAL RESOURCE EXTRACTION AND
PROCESSING, AND ADD DEFINITIONS TO APPENDIX A

BE IT ORDAINED BY THE GOVERNING BODY OF SANTA FE COUNTY:

1. The Board of County Commissioners adopted and restated the Santa Fe County Sustainable Land Development Code ("SLDC") on December 13, 2016, via Ordinance 2016-9.
2. The Board has determined that it is in the public interest to amend Chapter 11 of the SLDC to restate the general requirements for Developments of Countywide Impact, adopt regulations for mineral resource extraction and processing, and add definitions to effectuate those regulations in Appendix A.
3. Chapter 11 of the SLDC is hereby replaced with Exhibit A attached hereto.
4. Appendix A of the SLDC is hereby amended to add the following definitions:
 - a. **Exploration:** The act of searching for or investigating a mineral deposit, including sinking shafts, tunneling, drilling core and bore holes, digging pits, making cuts and other works for the purpose of extracting samples prior to commencement of development or extraction operations and the building of roads, access ways and other facilities related to such work. Exploration does not include activities that cause little or no surface disturbance, such as airborne surveys and photographs, use of instruments or devices that are hand carried or otherwise transported over the surface to perform magnetic, radioactive or other tests and measurements, boundary or claim surveying, location work, or other work that causes no greater disturbance than is caused by ordinary lawful use of the area by persons not engaged in exploration.
 - b. **Mineral:** A non-living commodity that is extracted from the earth for use or conversion into a saleable or usable product, but does not include Sand and Gravel Mining as defined herein, surface water or subsurface water, geo-thermal resources, or oil and natural gas.

- c. **Mineral Resource Extraction and Processing:** The process of obtaining a mineral from the earth's crust or from previously disposed or abandoned mining waste, including open-cut mining and surface operations, the disposal of refuse from underground and in situ mining, mineral transportation, concentrating, milling, evaporation, leaching and other processing, but excluding Sand and Gravel Mining as defined herein, the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipes, the extraction of geothermal resources.
- d. **Mining:** see "Mineral Resource Extraction and Processing."

5. This effective date of these amendments to the SLDC adopted by this Ordinance shall be thirty (30) after recordation by the County Clerk.

PASSED, APPROVED, AND ADOPTED THIS ___ DAY OF _____, 2019.

BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

Anna Hamilton, Chair
Board of County Commissioners of Santa Fe County

Attest:

Geraldine Salazar, County Clerk

Approved as to Form:

R. Bruce Frederick, County Attorney

Chapter 11 – Developments of Countywide Impact (DCIs)

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CHAPTER ELEVEN – DEVELOPMENTS OF COUNTYWIDE IMPACT (DCIs)

11.1. PURPOSE. Developments of Countywide Impact (DCIs) are those developments that have potential for far-reaching effects on the community, place major demands on public facilities and the County's capital improvement plan and budget, and have the potential to affect the environment and public health, safety, and welfare beyond the impacts on immediately neighboring properties, including adverse noise, light, odor and vibration; explosive hazards; traffic congestion; and burdens on County emergency response services. For these reasons, the special regulation of DCIs is necessary:

11.1.1. To protect the health, safety and welfare of the citizens, residents, and businesses of the County from the potentially harmful or hazardous long-term impacts of DCIs;

11.1.2. To ensure short and long-term compatibility (both on-site and off-site) of DCIs and the County at large;

11.1.3. To preserve the quality of life, economy, infrastructure, environment, natural and cultural resources, and natural landscapes;

11.1.4. To promote sustainability by protecting against the degradation of air, surface water, groundwater, and soil; and

11.1.5. To protect environmentally sensitive lands and visual and scenic qualities.

11.2. FINDINGS. The Board of County Commissioners hereby finds, declares and determines that this Ordinance:

11.2.1. Promotes the health, safety, and welfare of the County, its residents, and its environment by regulating public nuisance and land use impacts and effects resulting from DCIs;

11.2.2. Promotes the purposes of planning and land use regulation by assuring that adequate public facilities and services such as roads, fire, police, stormwater detention and emergency response services will be available at the time of approval of DCIs;

11.2.3. Prevents the occurrence of public nuisance and land use impacts resulting from the abandonment of DCIs;

11.2.4. Protects the County's priceless, unique, and fragile ecosystem, the preservation of which is of significant value to the citizens of the County and state;

11.2.5. Protects the County's unique and irreplaceable historic, cultural, archaeological, and ecotourist sites and scenic vistas, in addition to water and other natural resources;

11.2.6. Ensures the health, safety, and welfare of the County and its residents, and protects the natural and ecological resources of Santa Fe County as follows:

11.2.6.1. Water pollution and depletion by DCIs pose a significant risk because clean water is a precious resource in the County's unique high desert environment;

11.2.6.2. New Mexico has an interest in strengthening protection to historic, archaeological and cultural resources by issuing new rules and new statutes, if necessary, to put into place greater, and in some cases absolute protection, for

highly sensitive and significant historical, cultural and archaeological sites and landscapes;

11.2.6.3. Under the Wildlife Conservation Act (NMSA 1978, § §17-2-37 through 17-2-46), species of wildlife indigenous to the state may be threatened or endangered by DCIs require such police power regulation over DCIs so as to maintain and, to the extent possible, enhance wildlife population within the carrying capacity of the habitat;

11.2.6.4. Because DCIs may presently or in the future cause irreparable harm to the County's water supply and pollution of water and air, and may cause cancer, lung disease, and respiratory diseases, DCIs must disclose potential community health effects, and these effects must be scrutinized and thoroughly mitigated before DCIs are permitted;

11.2.6.5. Environmental hazards resulting from DCI projects may cause adverse health effects;

11.2.6.6. Air, soil, and water contamination may occur during different stages of DCIs, and such contamination could affect human health, which should be minimized to the greatest extent possible;

11.2.6.7. All New Mexicans have an equal right to live in a safe and healthy environment, and implementation of the precautionary principle promotes this premise and reduces potential effects on public health resulting from exposure to environmental toxins;

11.2.6.8. The burden of proof of harmlessness for any proposed technological innovation lies with the Applicant, not the general public;

11.2.6.9. DCIs could have a negative effect on tourism, landscapes and communities; and

11.2.6.10. The County has independent and supplemental authority, in addition to the authority of the state, to regulate public nuisance, land use and environmental impacts and effects stemming from DCIs throughout the County, which is consistent with state law and has not been preempted in any manner.

11.3. SCOPE. This Chapter applies to applications for any of the DCIs listed herein, including any applications that are pending on January 13, 2016, the effective date of the Sustainable Land Development Code (SLDC), that have not been approved. However, this Chapter shall not apply to an operation that would be a DCI but for which:

11.3.1. The County issued the permit before January 13, 2016; and

11.3.2. The Permittee made a substantial change in position in reliance on the issuance of the permit.

11.4. DESIGNATION. The following activities are designated as DCIs:

11.4.1. Landfills;

11.4.2. Junkyards;

11.4.3. Sand and gravel extraction and processing, except as specified in Section 11.10.2;

11.4.4. Concentrated animal feeding operations;

11.4.5. Oil and gas drilling and production; and

11.4.6 Mining and resource extraction.

11.5. GENERAL PROVISIONS. An application for a proposed DCI Overlay Zoning District or DCI Conditional Use Permit shall comply with the regulations, standards, and provisions of this Chapter and the SLDC. In the event of a conflict between this Chapter and another regulation, standard, or provision of the SLDC, the more stringent regulation, standard, or provision shall prevail.

11.5.1. No DCI Permitted by Right. The operation of a DCI shall require the prior establishment of a DCI Overlay Zoning District, except where such a zone is prohibited, the issuance of a DCI Conditional Use Permit, and the issuance of grading and construction permits. A DCI Overlay Zoning District shall not be used by a DCI other than the DCI approved for that DCI Overlay Zoning District.

11.5.2. Existing DCI Uses. An operation that would be a DCI under this Chapter that existed prior to the effective date of the Land Development Code on January 1, 1981 but that has been in continuous operation since its commencement, may continue to operate in substantially the same manner. An operation that would be a DCI under this Chapter, but that was approved by the County after the effective date of the Land Development Code on January 1, 1981, but prior to the effective date of the SLDC on January 13, 2016, may continue to operate in accordance with the Final Order approving the operation, provided however that any change in the manner or size of the operation shall require approval of a DCI Overlay Zoning District and a DCI Conditional Use Permit.

11.5.3. Application Procedures. An Applicant proposing a DCI shall submit an application for a DCI Overlay Zoning District, followed by an application for a DCI Conditional Use Permit, in accordance with the procedures in Chapter 4, provided however that the applications shall not be submitted or processed concurrently.

11.5.4. Public Involvement. Any person may review applications, including supporting materials, and submit comments and information to the Hearing Officer, Planning Commission, and Board of County Commissioners regarding an application for a DCI Overlay Zoning District or DCI Conditional use Permit.

11.5.5. Pre-application meeting. Prior to the submission of an application for a DCI Overlay Zoning District or a DCI Conditional Use Permit, the Applicant shall conduct a pre-application meeting in accordance with Section 4.4.4, and additionally, shall give notice to all residents, land owners, and applicable Registered Organizations and Community Organizations that are located within five (5) miles of the boundaries of the proposed or approved DCI Overlay Zoning District.

11.5.6. Costs, Fees, and Financial Guarantees. The Applicant and/or Permittee shall pay all costs associated with a DCI Overlay Zoning District and DCI Conditional Use Permit. including:

11.5.6.1. All costs associated with preparing or reviewing a permit application;

11.5.6.2. All costs incurred by the County to review and process a permit application, including the cost of retaining consultants and other persons to conduct assessments, prepare studies, and review applications;

11.5.6.3. All costs related to the annual reporting requirements of this Chapter and the SLDC, including the cost of retaining consultants and other persons to conduct assessments and prepare studies;

11.5.6.4. All costs related to the inspection of DCI facilities;

11.5.6.5. All costs related to the construction of improvements to existing public facilities and the construction of new public facilities based on the findings of the Adequate Facilities Public Assessment and the Traffic Impact Assessment, including an annual maintenance fee calculated at the end of each fiscal year by a Professional Engineer that is sufficient to reimburse the County for the cost of maintaining public facilities that is attributable to the DCI;

11.5.6.6. All costs incurred by the County related to the evaluation of compliance with a DCI Overlay Zoning District or DCI Conditional Use Permit, including the cost of retaining consultants and other persons; and

11.5.6.7. All costs related to reclamation shall be guaranteed in the form of a Financial Guarantee with the following characteristics:

1. only Financial Guarantees will be accepted;
2. the Financial Guarantee shall amount to no less than one hundred twenty five (125) percent of the estimated total cost of reclamation performed by a licensed New Mexico Professional Engineer. The Administrator may increase the bond amount requirement following the annual review, and the Applicant or Permittee shall post the additional amount no later than thirty (30) days after notice;
3. the Financial Guarantee shall be posted with a New Mexico-based bank with a local Santa Fe branch;
4. the Financial Guarantee shall be irrevocable; and
5. the Financial Guarantee shall be revised at least every five years to reflect the revised estimate of the cost of reclamation.

If the Permittee fails to maintain the Financial Guarantee, the Administrator may take any enforcement action available to her, including but not limited to suspension of the DCI Conditional Use Permit.

11.5.7. Compliance with Federal and State Laws and Regulations. All DCIs shall demonstrate compliance with applicable federal and state laws and regulations prior to the commencement of any activity authorized by a DCI Conditional Use Permit.

11.5.8. Maps. All maps shall be prepared in CAD or GIS format compatible with the Santa Fe County ESRI GIS System, NAD1983 State Plane New Mexico Central FIPS 3002 US Feet. The Applicant shall coordinate with the County to provide electronic, paper, and pdf copies of the CAD and GIS files. The scale of the pdf and paper maps may vary provided each map clearly illustrates the applicable features on letter or tabloid sized paper and can be reproduced using the GIS and CAD data. All topographic maps shall be submitted with two (2) foot contours.

11.5.9. Inspection. Representatives of the County may at any time, and at the expense of the Permittee, conduct inspections and/or review of monitoring data to ensure compliance with the DCI Conditional Use Permit and the standards of this Chapter and the SLDC.

11.5.10. Expiration Date. The Administrator may recommend, and the Board may specify an expiration date for a DCI Conditional Use Permit that it deems reasonable and necessary to ensure

compliance with the standards of this Chapter and the SLDC. A Permittee shall obtain a new DCI Conditional Use Permit prior to the expiration date in order to continue the operation. The expiration of a DCI Conditional Use Permit shall not relieve the Permittee of any obligation under the SLDC.

11.5.11. Transfer. A Permittee shall not transfer a DCI Conditional Use Permit to any other person or entity without the approval of the Board. The Board may deny a transfer if the DCI does not demonstrate compliance with the criteria of section 11.6.2.11. A Permittee shall maintain all financial assurances at all times, including during and after the transfer process, until the Administrator approves new financial assurances for the transferee.

11.5.12. Suspension, Modification, or Revocation of a DCI Conditional Use Permit.

11.5.12.1. The Administrator may suspend, modify or revoke a DCI Conditional Use Permit for any of the following reasons:

1. failure to comply with a standard or condition in the DCI Conditional Use Permit;
2. conduct of the DCI outside the authorized boundaries of the DCI Conditional Use Permit;
3. the suspension, revocation, cancellation, or similar action of any federal, state, or local permit required as a condition of approval of the DCI Conditional Use Permit;
4. it is found that the Permittee misrepresented a material statement in the application, including any supporting material, submitted to the County or a federal or state agency for a permit; or
5. other conduct, whether or not within the scope of the DCI Conditional Use Permit, that damages or commits waste to private or public property.

11.5.12.2. The Administrator shall serve a written Notice of Suspension or Revocation of the DCI Conditional Use Permit to the Permittee at the address provided in the application and at the DCI's location. The Notice shall state:

1. the reason for the proposed suspension or revocation;
2. the Permittee's obligation to cure the reason for the proposed suspension or revocation within fifteen (15) days of receipt of the Notice; and
3. the DCI Conditional Use Permit shall be suspended or revoked if the Permittee fails to cure the proposed reason for the proposed suspension or revocation by the specified date.

11.5.12.3. If the Permittee fails to resolve the reason for the suspension or revocation by the specified date, or if the Permittee notifies the Administrator in writing that it disputes the Notice:

1. the matter shall be scheduled for a hearing before a Hearing Officer, which hearing shall be noticed in accordance with Section 4.6.4 and scheduled as soon as practicable but in no event later than thirty (30) days after the Permittee's receipt of the Notice;

2. during the hearing, the Administrator bears the burden to demonstrate by a preponderance of the evidence that the DCI Conditional Use Permit should be suspended or revoked;
3. the Permittee may call witnesses and submit evidence disputing the Administrator's reason for the suspension or revocation;
4. within fifteen (15) working days of the hearing, the Hearing Officer shall make written findings of fact and rulings of law and recommend to the Planning Commission whether to suspend or revoke the DCI Conditional Use Permit;
5. the matter shall be scheduled for a hearing before the Planning Commission, which hearing shall be noticed in accordance with Section 4.6.4 and scheduled as soon as practicable, and after hearing, the Planning Commission shall make written findings of fact and rulings of law and recommend to the Board whether to suspend or revoke the DCI Conditional Use Permit;
6. the matter shall be scheduled for a hearing before the Board, which hearing shall be noticed in accordance with Section 4.6.4 and scheduled as soon as practicable, and after hearing, the Board may:
 - a. affirm the recommendation of the Planning Commission to suspend or revoke the DCI Conditional Use Permit; or
 - b. impose additional conditions on the DCI Conditional Use Permit.
7. Any person aggrieved by a final decision of the Board pursuant to this Section may appeal to District Court in accordance with NMSA 1978, § 39-3-1.1 (as amended), and Rule 1-074 NMRA;
8. If the Permittee fails or refuses to comply with an order of the Board, the Administrator may seek a court order enjoining the DCI, in addition to any other remedies available to the County under state law; and
9. The remedies described in this section shall not be construed as the exclusive remedies available to the County.

11.6. DCI OVERLAY ZONING DISTRICTS.

11.6.1. Application Requirements. Any application for a DCI Overlay Zoning District shall include the following:

11.6.1.1 Application Submissions Checklist. All materials required by the Administrator on the application submissions checklist.

11.6.1.2. Requirements and Procedures. All submittals necessary to comply with the requirements and procedures described in Chapter 4 of the SLDC.

11.6.1.3. Noise Study. The applicant shall submit a Noise Study in accordance with section 7.21.4.

11.6.1.4. A DCI Overlay Plan and Report. A DCI Overlay Plan and Report shall include

the following:

1. a map of the proposed DCI Overlay Zoning District, including its relationship to surrounding areas, existing topography and key features
2. the planning objectives and the character of the development to be achieved through the overlay, and the phases in which the DCI will occur;
3. the approximate location of all neighboring development areas, subdivisions, residential dwellings, neighborhoods, traditional communities, and community centers, and other non-residential facilities and structures within five (5) miles of the proposed DCI Overlay Zoning District;
4. the location, arrangement, size, height, floor area ratio of any existing and proposed buildings, structures, parking facilities and activities in the proposed DCI Overlay Zoning District;
5. a viewshed analysis describing the visual impact of the proposed DCI Overlay Zoning District;
6. the proposed traffic circulation plan, including number of daily and peak hour trips of vehicles including heavy equipment to and from the proposed DCI Overlay Zoning District, and the proposed traffic routes to and from the proposed DCI Overlay Zoning District to the nearest intersection with an arterial road or highway;
7. the location of all fire, police, and emergency response service facilities, roads shown on the capital improvement plan, floodways, floodplains, wetlands or other natural resource areas, historic, cultural and archeological sites and artifacts slopes between fifteen (15) percent and thirty (30) percent and greater than thirty (30) percent, and wildlife vegetation habitats and habitat corridors, located in or within five (5) miles of the proposed boundaries of the DCI Overlay Zoning District;
8. a statement explaining how the proposed DCI Overlay Zoning District complies with the vision, goals, objectives, policies and strategies of the County's Sustainable Growth Management Plan (SGMP) and any Area, District and Community Plan within the proposed boundaries;
9. a statement explaining how the proposed DCI Overlay Zoning District relates to and is compatible with adjacent and neighboring areas within five (5) miles of the proposed boundaries and how the proposed DCI Overlay Zoning District will not adversely affect other land uses in the County or the ability to successfully implement the visions, goals, objectives, policies and/or strategies of any County planning document;
10. the identification of federal, state, and local laws and regulations potentially applicable to the proposed DCI;
11. A detailed schedule for each phase of the proposed DCI including timing of each phase, boundaries and description of each phase of development, operation, and reclamation; and
12. all application requirements in this Chapter.

11.6.1.5. Studies, Reports and Assessments. All Studies, Reports and Assessments (SRAs) required in Chapter 6 of the SLDC and the following additional information:

1. Water Services Availability Report. A Water Service Availability Report (WSAR) demonstrating that the proposed DCI will not infringe on other water rights, impair wells, or adversely affect the quality or quantity of ground or surface waters;

2. Traffic Impact Assessment. A Traffic Impact Assessment (TIA) identifying:

a. the estimated number and weight of vehicles both loaded and unloaded that will enter and leave the proposed DCI and their impact on the surrounding road network;

b. the traffic routes that will be used by vehicles entering and leaving the proposed DCI, that avoid, to the maximum extent possible, residential areas, commercial areas, environmentally and visually sensitive areas, scenic byways, schools, governmental buildings, villages, towns, and municipalities, and other congested locations;

c. the estimated time and frequency of vehicles entering and leaving the DCI; and

d. a plan to prevent the loss of transported materials and minimize or eliminate fugitive dust during transportation; and

3. Fiscal Impact Assessment. A Fiscal Impact Statement (FIA) shall identify the cost of long-term environmental impact abatement and restoration and the associated fiscal impact on the applicant, County, and any other affected governmental body including impacts on tax base and public services.

4. Cultural Resource Protection Plan. The Cultural Resource Protection Plan shall identify and demonstrate consultation with each potentially affected tribe, band, and traditional community, the identification of cultural and archaeological resources and sites, and measures to avoid disturbance or disruption of resources, sites, and practices. The plan shall be prepared by a licensed professional archeologist and a professional anthropologist with expertise in the cultures of the region.

11.6.1.6. Applicant Background. The Applicant shall furnish the following information under oath:

1. name and address, including all aliases, the date and state or province and country of incorporation;

2. name and address of the registered agent, if any;

3. all partners or limited partners of a partnership Applicant; all officers, directors or executives of a corporate Applicant; all stockholders holding more than five percent of the stock of a corporate Applicant; and any other person with an ownership interest in the Applicant;

4. all entities owned (partially or wholly) or controlled in any manner by any person or entity identified in Section 11.6.1.7.2;

5. any mining or resource extraction operation or facility that the Applicant previously operated in this or any other county, city, state, or country;
6. whether the Applicant, including any person or entity identified in Section 11.6.1.7.2, has ever had any license, permit, development order or other type of zoning or land use approval suspended, revoked, withdrawn, cancelled, or otherwise restricted, the reason for such action, and the name of the person or entity under which the Applicant operated that was subject to such action;
7. all convictions, pleas of nolo contendere, or settlements related to a criminal statute or ordinance of any jurisdiction, including deferred sentences and conditional discharges, except minor traffic violations, by any person identified under this section;
8. all forfeitures or other adverse actions regarding a bond by any person identified under this section; and
9. all civil suits under the law of any jurisdiction related to alleged harm or impact to the environment or public resources, including air and water quality.

11.6.1.7. Additional Information. Such other information as the Administrator or the Board may require to determine compliance with the standards for the approval of the DCI Overlay Zoning District.

11.6.2. REVIEW CRITERIA. The Administrator, Hearing Officer, Planning Commission and Board shall consider the following criteria when making recommendations and determinations regarding a DCI Overlay Zoning District:

11.6.2.1. Whether the proposed DCI Overlay Zoning District is consistent with the SGMP and applicable Area, District and Community Plans;

11.6.2.2. Whether the proposed DCI Overlay District is consistent with applicable federal and state regulations;

11.6.2.3. Whether the environmental effects and impacts identified in the EIR are avoided or if unavoidable, the environmental effects and impacts identified in the EIR are mitigated to the greatest extent possible, and whether that mitigation is adequate;

11.6.2.4. Whether adequate public facilities identified in the APFSA either exist or have been funded;

11.6.2.5. Whether improvements identified in the APFSA can be provided by the applicant, or by the County pursuant to the capital improvements plan, and when such facilities will be available;

11.6.2.6. Whether water is available for each phase of the proposed DCI as set forth in the WSAR, whether the proposed water use is reasonable given local conditions and community needs, and whether the Applicant includes methods to lessen impacts on water resources;

11.6.2.7. Whether the impacts of traffic identified in the TIA are mitigated;

11.6.2.8. Whether the proposed DCI Overlay Zoning District is compatible with adjoining uses given the size, design and operational characteristics of the proposed DCI, or can be made compatible through reasonable effort and conditions of approval;

11.6.2.9. Whether the proposed DCI Overlay Zoning District or proposed DCI may cause a public nuisance or have an effect or impact on adjoining uses or resources, including property values, public safety, cultural, historic and archaeological resources, emergency services, wildlife and vegetation, noise, roads and highways, vibration, odor, glare, fire protection, access, visual resources, air and water quality and quantity, which cannot be mitigated to acceptable levels through reasonable effort;

11.6.2.10. Whether the proposed DCI will be detrimental to the safety, health, prosperity, order, comfort or convenience of the residents of the County;

11.6.2.11. Whether the Applicant, which includes all partners or limited partners of a partnership Applicant, all officers, directors or executives of a corporate Applicant, and all stockholders holding more than five percent of the stock of a corporate Applicant, and any person with an ownership interest in the Applicant, has complied with federal, state and local laws, regulations, development orders, conditions of approval and other requirements in previous activities by the Applicant, the persons identified in this paragraph, or entities they own or control; and

11.6.2.12. Whether the applicant proves that the proposed DCI will comply with the standards of this Chapter, the SLDC, and other applicable federal, state, or local standards.

11.7. DCI CONDITIONAL USE PERMIT

11.7.1. Application Requirements. An application for a DCI Conditional Use Permit shall include the following:

11.7.1.1 Application Submissions Checklist. All materials required by the Administrator on the application submissions checklist.

11.7.1.2. Requirements and Procedures. Submittals necessary to comply with the requirements and procedures described in Chapter 4 of the SLDC.

11.7.1.3. Final Order. A Final Order from the Board granting approval of the DCI Overlay Zoning District;

11.7.1.4. Demonstration of Compliance. A demonstration of compliance with all conditions imposed in the Final Order from the Board granting approval of the DCI Overlay Zoning District;

11.7.1.5. State and Federal Permits. All required state and federal permits;

11.7.1.6. Phased Plan. A plan identifying each phase of the development, operation, and reclamation of the proposed DCI, including a map with the GPS coordinates for each aspect of the phase in GIS format based on the standard Santa Fe County GIS spatial reference (NAD 1983 State Plane New Mexico Central FIPS 3002 Feet).

11.7.1.7. Cost Estimate. A preliminary cost estimate prepared and sealed by a Professional Engineer for all site improvements and reclamation; and

11.7.1.8. Studies, Reports, and Assessments. SRAs as specified in Chapter 6 shall be

updated, and shall address additional potential impacts specified in this section and any additional requirements specific to the applicable DCI subsection. The following additional information is required for the SRAs for a DCI Conditional Use Permit:

1. **Environmental Impact Report.** The Applicant shall submit an updated EIR to include the applicable potential impacts identified in Table 11-1 using the best available science.

Table 11-1 Potential Impacts.

POTENTIAL IMPACTS	SAND AND GRAVEL EXTRACTION	LANDFILLS	JUNKYARDS	CONCENTRATED ANIMAL FEEDING OPERATIONS	MINERAL RESOURCE EXTRACTION AND PROCESSING
Federal and State endangered and threatened species and species of concern	Yes	Yes	Yes	Yes	Yes
Connectivity and protection of significant wildlife habitat areas	Yes	Yes	Yes	Yes	Yes
Stormwater runoff, surface water flows and levels	Yes	Yes	Yes	Yes	Yes
Surface water contamination, and degradation generally	Yes	Yes	Yes	Yes	Yes
Wetland and riparian area viability	Yes	Yes	Yes	Yes	Yes
Groundwater levels and availability, groundwater depletion	Yes	Yes	Yes	Yes	Yes
Groundwater contamination, and degradation generally	Yes	Yes	Yes	Yes	Yes
Water well contamination	Yes	Yes	Yes	Yes	Yes
Erosion, siltation, and dust	Yes	Yes	Yes	Yes	Yes
Soils bearing strength and stability for development	No	Yes	No	Yes	Yes

Wildfire hazard	Yes	No	Yes	No	Yes
Earthquake and landslide hazard	No	Yes	No	Yes	Yes
Flooding hazards and floodwater contamination	Yes	Yes	Yes	Yes	Yes
Archaeological and historic resources	Yes	Yes	Yes	Yes	Yes
Landscape scenic quality	Yes	Yes	Yes	Yes	Yes
Conservation and open space areas, scenic roads, and recreation trails, including visual impacts and noise	Yes	Yes	Yes	Yes	Yes
Agricultural crop lands and pasture lands	Yes	Yes	No	Yes	Yes
Nuisance, hazard, traffic, character, and visual impacts to residential uses	Yes	Yes	Yes	Yes	Yes
Nuisance, hazard, and visual impacts to commercial and public or institutional uses	Yes	Yes	Yes	Yes	Yes
Adequacy of roads for intended use	Yes	Yes	Yes	Yes	Yes
Water system availability and capacity	Yes	Yes	Yes	Yes	Yes
Fire protection and emergency medical service availability and response times	Yes	Yes	Yes	Yes	Yes
Sulfide and other reactive minerals	Yes	No	No	No	Yes

2. **Sampling and Analysis Plans.** The Applicant shall not commence the EIR until a Professional Engineer has prepared Sampling and Analysis Plans (SAPs) for surface water, ground water, soils, geochemistry, vegetation, terrain, and cultural and archaeological resources that ensure the collection of sufficient information to adequately characterize each impact. Each SAP shall

describe the sampling methodology, including the number, density, and locations of samples, the collection method, including recording, mapping, and field data evaluation, and the method for stabilizing, shipping, and analyzing the samples, including the chain of custody procedures. The Applicant shall revise and submit a SAP if the Administrator determines that the SAP is not adequate or more samples or data are necessary.

11.7.1.9. Additional Plans, Reports and Assessments. The following additional plans, reports and assessments:

1. Technical and Financial Feasibility Assessment. The Applicant shall submit a Technical and Financial Feasibility Assessment certified by a Professional Engineer with expertise in Mineral Resource Extraction and Processing and approved by the Administrator that demonstrates the technical and financial feasibility of the proposed DCI for all phases of development, operation, and closure, including a description of debt and equity at each phase, the debt retirement schedule, estimated reclamation costs and schedule, sources of funding to retire debt, estimated construction costs and schedule, estimated annual costs, and proof that the Applicant possesses the right and expertise to use the technology in the proposed DCI.

2. Applicant Background Report. The Applicant shall update and submit all information required in Section 11.6.1.6.

3. Reclamation Plan. The Applicant shall submit a reclamation plan designed and certified by a Professional Engineer with expertise in reclamation and approved by the Administrator. The plan shall identify the phases of reclamation, if any, the estimated cost of each phase, the full cost of all phases, and the relationship of each phase of operation and reclamation, and demonstrate how the Permittee will comply with the reclamation standards specified below. The Professional Engineer, or another Professional Engineer with comparable expertise in reclamation and approved by the Administrator, shall oversee implementation of the plan.

a. General. Land areas shall be reclaimed to a condition suitable for new land uses. Wildlife habitat conditions shall be restored in a manner comparable to or better than the habitat conditions that existed prior to the proposed DCI. All other site conditions shall comply with the standards of this Chapter, the SLDC, and other applicable federal, state, and local requirements;

b. Grading. Disturbed areas shall be re-graded to blend into and conform to the general natural form and contours of the adjacent areas, all slopes shall be graded to 3:1 or less; and

c. Revegetation. The plan shall describe the vegetation prior to any grading of the site and shall demonstrate how the site will be returned to its original or better vegetated condition using NMSU Seed Certification and Noxious Weed Certification. The plan shall identify all soil types and depths, and the best practice methods for salvaging, storing, and replacing disturbed soils. If no soil is present, the plan shall explain how revegetation will be accomplished.

4. Emergency Response and Preparedness Plan. The Applicant shall submit an Emergency Response and Preparedness Plan (ERP-P) designed and certified by a Professional Engineer with expertise in emergency response and preparedness and approved by the Administrator which includes:

a. a description and plan of response to emergencies that may be associated with the operation of the proposed DCI, including explosions, fires, gas or water pipeline leaks or ruptures, Hazardous Material spills, vehicle accidents, and the failure of berms, retaining walls, dams or ponds;

b. fire prevention, response, and health and safety plans;

c. the names, addresses, and 24-hour telephone numbers of at least two (2) persons responsible for emergency response; and

d. a printed map with latitude/longitude UTM graticules along the edges. The maps shall be produced and available in GIS format based on the standard Santa Fe County GIS spatial reference, and the digital data shall be provided to the County for use in its GIS databases and mapping.

5. Fugitive Dust Control Plan. The Applicant shall submit a fugitive dust control plan designed and certified by a Professional Engineer with expertise in fugitive dust control and approved by the Administrator, including the chemical and physical characterization of the dust, the control measures to be implemented to reduce the dust, and the sources of water to be used for dust control, provided however that the Board shall not approve a dust control plan which proposes to use potable water for dust control.

6. Greenhouse Gas Emissions Assessment and Plan. The Applicant shall submit an assessment and plan for greenhouse gas emissions prepared by a Professional Engineer with expertise in greenhouse gas emissions control and approved by the Administrator. The assessment shall identify and quantify the greenhouse gas emissions attributable to the proposed DCI. The plan shall demonstrate how the Applicant will offset those emissions.

7. Hazardous and Toxic Materials Plan. The Applicant shall submit a Hazardous and Toxic Materials Plan prepared by a Professional Engineer with expertise in the handling and storage of Hazardous Materials and approved by the Administrator. The plan shall identify the Hazardous Materials associated with each phase of the proposed DCI, including fuels, oils, explosives, hazardous and toxic chemicals, reactive chemicals and minerals, and biological toxins, along with a plan to handle, store, and dispose those materials in compliance with this Chapter, the SLDC, and other applicable federal, state, and local requirements.

8. Wildlife Impact Mitigation Plan. The applicant shall submit a Wildlife Impact Mitigation Plan developed by a professional biologist with expertise in wildlife impact mitigation approved by the Administrator. The plan shall describe how wildlife impacts attributable to the proposed DCI will be eliminated or mitigated to the greatest extent possible.

11.7.2. Review Criteria. The Administrator, Hearing Officer, Planning Commission, and Board shall consider the following criteria when making a recommendation or decision regarding DCI Conditional Use Permit:

11.7.2.1. Whether the proposed DCI is consistent with the DCI Overlay Zoning District;

11.7.2.2. Whether the proposed DCI is consistent with the SGMP and applicable Area, District and Community Plan;

11.7.2.3. Whether the proposed DCI or a previous phase of an approved DCI could cause or has caused harm to any resource referenced in this Chapter or the SLDC, including soil, water, air, roads, facilities, structures, cultural, historic, or archaeological sites, adjoining uses, or public or private property;

11.7.2.4. Whether the proposed DCI complies with all federal, state and local laws, regulations, and ordinances;

11.7.2.5. Whether the Applicant, which includes all partners and limited partners of a partnership Applicant, all officers, directors or executives of a corporate Applicant, all stockholders holding more than five percent of the stock of a corporate Applicant, and any person with an ownership interest in the Applicant, has complied with federal, state and local laws, regulations, ordinances, development orders, conditions of approval and other requirements in previous activities by the Applicant, the persons identified in this paragraph, or entities they own or control; and

11.7.2.6. Whether the Applicant proves that the proposed DCI will comply with the standards of this Chapter, the SLDC, and other applicable federal, state, or local standards.

11.8. PERFORMANCE STANDARDS.

11.8.1. Visual Resources. The proposed DCI shall meet the following standards for the protection of visual resources:

11.8.1.1. General. The view from all public roads, rivers, parks, and adjoining residential areas shall be screened;

11.8.1.2. Buildings. All buildings shall be designed, scaled, and located to reduce the visibility of the proposed DCI from off-site;

11.8.1.3. Vegetation - General. Vegetation in the DCI Overlay Zoning District shall be preserved to the maximum extent possible; and

11.8.1.4. Vegetation - Screening. Vegetation that screens any part of the proposed DCI shall be preserved.

11.8.2. Hazardous and Toxic Materials. Hazardous Materials, including all materials identified in the Hazardous and Toxic Materials Plan, shall be contained within a tank or structure with a lined impoundment designed by a Professional Engineer with expertise in the handling and storage of Hazardous Materials. The tank or structure and lined impoundment shall be set back a minimum of five hundred (500) feet from the property boundaries of the proposed DCI and a minimum of one thousand (1000) feet from a private domestic well or water body, including stream, pond, lake, spring, seasonal watercourse, wetland, and riparian area, and a minimum of one thousand (1000) feet from any well or spring that supplies water for a public water system, or any greater distance required by a wellhead protection program.

11.8.3. Water Resources. Water quality shall not be degraded below the applicable standards of the New Mexico Water Quality Act (NMAC 20.6.2 and NMAC 20.6.4), and the use of water shall

not exceed the permitted amount, cause detriment to existing water rights, or be contrary to the conservation of water in the County. The Board shall consider the following factors in determining impact on water resources:

11.8.3.1. Chemical, physical and biological characteristics including water circulation, temperature, substrate, suspended particulates, clarity, odor, color and taste of water, concentration of heavy metals or any other regulated constituents, and concentration of nutrients, including phosphorus and nitrates;

11.8.3.2. Erosion or sedimentation;

11.8.3.3. Sediment and other pollutant loading;

11.8.3.4. Filtration, pollutant uptake and storage capacity of wetlands and riparian areas;

11.8.3.5. Stream channel morphology, shoreline stability, and structure and function of a water body, including stream, pond, lake, spring, seasonal watercourse, wetland, and riparian area;

11.8.3.6. Surface and subsurface flow patterns;

11.8.3.7. Nutrient levels and eutrophication rates;

11.8.3.8. Capacity, aerial extent, and functioning of a water body, including stream, pond, lake, spring, seasonal watercourse, wetland, and riparian area.

11.8.3.9. Flushing flows, stormwater runoff, and other nonpoint sources of pollutants;

11.8.3.10. Groundwater recharge and discharge patterns in the watershed; and

11.8.3.11. Wells.

11.8.4. Wildlife and Environmental Resources. The proposed DCI shall meet the following standards for the protection of wildlife and environmental resources:

11.8.4.1. Any modification of the terrain shall be environmentally sound and not result in net loss of wildlife habitat;

11.8.4.2. The location and time of activities shall be limited to ensure no significant negative impacts to federally or state listed endangered or threatened species or to any other species of conservation concern; and

11.8.4.3. Wildlife corridors shall not be interrupted.

11.8.5. Terrain Management. The proposed DCI shall meet the following terrain management standards:

11.8.5.1. Organic Materials. Fill areas shall be prepared by removing organic materials, such as vegetation and any other material, which is detrimental to the proper compaction of the site or not otherwise conducive to the stability of the site;

11.8.5.2. Vegetation. Existing vegetation shall not be removed more than thirty (30) days prior to the commencement of grading. Areas that have been filled, covered, or graded shall be revegetated as soon as practicable. Site specific native seed mixtures shall be used, with

the exception of landscaped areas, if any. Mulching shall be used to support vegetation growth;

11.8.5.3. Noxious Weeds. All seed mixtures, mulch, and erosion control and revegetation materials shall comply with the NMSU Seed and Noxious Weed Certification;

11.8.5.4. Topsoil. The topsoil shall be stripped and stockpiled on site for redistribution over the completed final grade. Stockpiling shall conform to best practices and shall ensure that soil organisms in stockpiled soil remain viable until completion of the redistribution process;

11.8.5.5. Cut and Fill Slopes. Cut slopes shall be graded to a slope no steeper than 2:1, and fill slopes shall be graded to a slope no steeper than 3:1, unless a properly designed retaining wall is used;

11.8.5.6. Surface Runoff. The volume of surface runoff shall not exceed the volume that occurred prior to commencement of the proposed DCI. Runoff shall be contained in a retention pond designed by a Professional Engineer; and

11.8.5.7. Sediment and Erosion. Sediment shall not be transported or deposited into any water body, including stream, pond, lake, spring, seasonal watercourse, wetland, and riparian area, or any property outside the property boundaries of the proposed DCI, excluding properly designed sediment ponds pursuant to section 11.14.6.6.4. Best management practices, including grading, fencing, landscaping, soil stabilization, and backfilling, shall be used to reduce the rate and volume of run-off, reduce erosion, and prevent the transport and deposition of sediment.

11.8.6. Fugitive Dust. The proposed DCI shall meet the following standards for the control of fugitive dust:

11.8.6.1. Fugitive dust shall be reduced to the maximum extent possible, including the use of wet suppression through manual or mechanical application, fabric fencing, truck tarps, chemical dust suppressants meeting federal, state, and local water resource protection standards and applied in accordance with the manufacturer's recommendations, and road hardening or paving;

11.8.6.2. Entry and exit aprons, steel grates, or other equivalent devices to remove bulk material from the tires of vehicle traffic shall be installed; and

11.8.6.3. Potable water shall not be used for dust control.

11.8.7. Greenhouse Gas Emissions. The proposed DCI shall offset all greenhouse gas emissions to ensure a net zero increase in the amount of emissions.

11.8.8. Fiscal Impact. The Applicant shall bear all costs associated with the proposed DCI, and the proposed DCI shall have no negative fiscal impact on the County.

11.8.9. Financial Feasibility. The Applicant shall demonstrate the financial capability to pay for all phases of the proposed DCI, reclamation, and remediation by posting a financial guarantee as specified in Section 11.5.6.

11.8.10. Air Quality. Federal and state air quality standards shall not be exceeded.

11.8.11. Annual Monitoring Report. The proposed DCI shall meet the following monitoring standards:

11.8.11.1. The Permittee shall submit an annual monitoring report to the Administrator no later than January 31st of each year after approval of the DCI Conditional Use Permit. The report shall describe the phase of operation, if applicable, the nature of operation during the previous year, the size and nature of disturbance of the area affected by operation, the structures and facilities constructed, the number of on- and off-site truck trips and sizes of trucks, the area developed and primarily affected by the DCI, the quantities and type of materials extracted, transported, and disposed, the status of reclamation, including the size and type of activities and estimated cost of reclamation to be completed, the results of air, soil and ground or surface water monitoring, an updated ERP-P, and any other information requested by the Administrator;

11.8.11.2. After reviewing the report, the Administrator shall recommend and the Board shall determine, after a hearing, whether the DCI Conditional Use Permit should be suspended, revoked, or modified. If the Board determines that the permit should be modified, it may require the Permittee to cease the operation until a new DCI Conditional Use Permit has been approved;

11.8.11.3. If the Permittee fails to timely submit a report required under this Section, the Administrator may take any enforcement action available to her, including but not limited to suspension or revocation of the DCI OCnditional Use Permit; and

11.8.11.4. Reports shall be kept on file as a matter of public record.

11.9. REGULATIONS FOR LANDFILLS.

11.9.1. Purpose; Intent. This Section establishes operational, location, and general standards for landfills and associated activities, in addition to Sections 11.1 through 11.7, to mitigate negative impacts on the surrounding properties.

11.9.2. Applicability. This Section applies to any place of business or establishment which is maintained, operated or used for the disposal of solid waste located within the County.

11.9.3. Operational Standards and Requirements.

11.9.3.1 Solid Waste Permit. The Applicant shall obtain a solid waste permit from the New Mexico Environmental Improvement Board pursuant to NMAC 20.9.3 (Solid Waste Facility Permits and Registrations). The permit shall be submitted with the application for a DCI Conditional Use Permit.

11.9.3.2. Setbacks.

1. refuse and salvage material shall not be placed or stored either temporarily or permanently closer than three hundred (300) feet from the property boundaries and five hundred (500) feet from all public road rights-of-way, public recreational easements, and any water bodies and/or seasonal water courses.

2. the property boundaries shall not be located closer than one-quarter (1/4) mile from any existing dwelling or land subdivided for residential development.

11.9.3.3. Analysis of Landfills in the County. The Applicant shall submit an analysis of the existing capacity, remaining life, and need for a new solid waste facility in the County.

11.9.3.4. Hours of Operation. A landfill shall not be open to the public earlier than 8 a.m. nor remain open later than 5 p.m.

11.10. REGULATIONS FOR JUNKYARDS.

11.10.1. Purpose; Intent. The purpose of this Section is to establish operational, location, and general standards for junkyards and associated activities, in addition to those requirements in sections 11.1 through 11.7, to mitigate negative impacts on the surrounding properties.

11.10.2. Applicability. This Section applies to any place of business or establishment which is maintained, operated or used for storing, keeping, buying or selling junk or scrap, or for the maintenance or operation of a motor vehicle graveyard located within the County.

11.10.3. Operational Standards and Requirements.

11.10.3.1. Hours of Operation. A junkyard shall not be open to the public earlier than 8 a.m. nor remain open later than 5 p.m.

11.10.3.2. Setbacks.

1. refuse and salvage material shall not be placed or stored either temporarily or permanently closer than three hundred (300) feet from the property boundaries and five hundred (500) feet from all public road rights-of-way, public recreational easements, and water bodies.

2. the property boundaries shall not be located closer than one-quarter (1/4) mile from any existing dwelling or land subdivided for residential development.

11.11. REGULATIONS FOR LARGE-SCALE SAND AND GRAVEL EXTRACTION.

11.11.1. Purpose; Intent. This Section 11.10 establishes operational, location, and general standards for sand and gravel extraction and processing and associated extraction activities, in addition to Sections 11.1 through 11.7, to mitigate negative impacts on the surrounding properties, conserve of natural resources, and reclaim the land.

11.11.2. Applicability. This Section applies to any sand and gravel extraction and processing activity including any removal, stockpiling, or processing of construction materials, including stone, sand, gravel, aggregate, or similar naturally occurring construction materials. Any screening, crushing, gravel recycling, washing or stockpiling of aggregate, in concert with extraction, constitutes a sand and gravel operation. A sand and gravel operation that affects ten (10) or more acres of land, extracts or processes more than twenty-thousand (20,000) tons of material, or utilizes blasting is considered a Large Scale Sand and Gravel Operation and shall be subject to this Chapter. A sand and gravel operation that affects ten (10) or fewer acres of land, extracts or processes less than twenty-thousand (20,000) tons of material, and does not utilize blasting shall not be subject to this Chapter, and shall be regulated under Section 10.19. One or more small, incremental increases of a sand and gravel operation that is subject to Section 10.19 that causes the operation to exceed the thresholds in this section are prohibited without a DCI Conditional Use Permit. No person, including an applicant, operator, owner, or corporate officer, whether individually or on behalf of such person, who has been granted approval to operate a sand and gravel operation of less than ten (10) acres of land, less than twenty-thousand (20,000) tons of material, or that does not utilize blasting shall be granted approval to operate a new sand and gravel operation or to expand that operation or another sand and gravel extraction or processing operation on the same, contiguous, or nearby property if the combined operations would affect more than ten (10) acres of land, process

more than twenty-thousand (20,000) tons of material, or utilize blasting, except as authorized by a DCI Conditional Use Permit.

11.11.3. This Section does not apply to:

11.11.3.1. Excavation of a basement and footing for a building;

11.11.3.2. Excavation for retaining walls; or

11.11.3.3. Mineral Resource Extraction and Processing pursuant to Section 11.14.

11.11.4. Application Requirements. In addition to other applicable requirements in this Chapter, the applicant shall provide:

11.11.4.1. Project description. The Applicant shall provide a detailed statement describing the operation, including:

1. the amount and type of materials to be excavated;
2. the duration of the excavation activity and reclamation activity;
3. the proposed method of excavation;
4. the amount of fill to remain on site; and
5. a statement from a Professional Engineer indicating the type of material(s) to be excavated and their suitability for road and structural fill construction.

11.11.4.2. Blasting Plan.

1. The plan shall be created by a qualified blasting firm which is knowledgeable of State of New Mexico requirements and National Fire Protection Association (NFPA) 495 (Explosive Materials Code).
2. The blasting plan shall identify the maximum number of holes to be shot each occurrence, the type of explosive agent, maximum pounds per delay, method of packing, type of initiation device to be used for each hole, and blasting schedule, and establish reasonable noise and vibration estimates not exceeding the standards set in Table 11.2.
3. The County may hire a qualified blasting firm to review the Applicant's blasting plan at the expense of the Applicant.

11.11.4.3. Closure Plan. The Applicant shall submit closure and post-closure plans with the application, and shall update the plan no later than one (1) year prior to the commencement of closure. The plans shall be based on the findings of the EIR, and shall identify a Professional Engineer, approved by the Administrator, who shall be responsible for implementation of the plans. All facilities not required to ensure compliance with the standards and requirements of the SLDC, this Chapter, and the DCI Conditional Use Permit shall be removed. Following the completion of closure, the Professional Engineer shall prepare a final report describing the actions taken by the Permittee, the results of closure and post-closure monitoring, and a certification that the DCI Overlay Zoning District after closure will comply with all applicable standards in perpetuity.

11.11.5. Operational Standards and Requirements.

11.11.5.1. Hours of Operation. Hours of operation are limited to the period between sunrise or 7:00 a.m. whichever is latest, and sunset or 6:00 p.m., whichever is earliest, Monday through Saturday. The Administrator may recommend and the Board may impose further restrictions on hours of operation.

11.11.5.2. Setbacks. A sand and gravel operation shall not be located closer than five hundred(500) feet from property boundaries, public road rights-of-way, public recreational easements, and waterbodies and/or seasonal water courses, and one-half (1/2) mile from residential structures, shall maintain an additional minimum buffer of one hundred (100) feet of natural vegetation between the operation and the annual high water mark of any waterbody.

11.11.5.3. Signs. In addition to the other applicable requirements of Section 7.9, a sand and gravel operation shall have no more than two (2) signs of four (4) square feet each.

11.11.5.4. Blasting.

1. A blasting permit shall be obtained before any blasting can occur.
2. Blasting shall be conducted only during the permitted hours of operation.
3. Blasting shall be conducted by a person who has been trained, examined, and certified by the Director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department.
4. The Permittee shall notify the Administrator and, upon request, the owners and lessees of adjoining properties of the proposed blasting no less than ten (10) working days prior to a blast, and shall provide the name of the qualified blasting firm and proof of insurance of no less than one million dollars (\$1,000,000) for each occurrence.
5. The Permittee shall monitor all blasting and record all noise and vibration levels, and report this information to the Administrator within five (5) working days of the blasting occurrence
6. The Permittee shall comply with the following standards:
 - a. ground vibration shall not exceed 0.50 inches per second Peak Particle Velocity at any property boundary, unless the adjoining property is owned by the operator and not leased to any other person.
 - b. noise levels shall not exceed the values specified in Table 11-2:

Table 11-2 Maximum Allowable Noise Levels.

Lower frequency limit of measuring system, Hz + 3dB	Maximum level in dB
0.1 Hz or lower—flat response	134 peak

2.0 Hz or lower—flat response	133 peak
6.0 Hz or lower—flat response	129 peak

11.12. REGULATIONS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS. Reserved.

11.13. REGULATIONS FOR OIL AND GAS DRILLING AND PRODUCTION. See County Ordinance No. 2008-19.

11.14 REGULATIONS FOR MINERAL RESOURCE EXTRACTION AND PROCESSING.

11.14.1. Purpose; Intent. This Section establishes operational, location, and general standards for Mineral Resource Exploration and Extraction and Processing, in addition to Sections 11.1 through 11.7, in order to:

11.14.1.1. To protect the health, safety and welfare of the citizens of the County, including their quality of life, economy, cultural heritage, history and traditions, infrastructure and natural resources, including air, water, wildlife and scenic beauty;

11.14.1.2. To protect the citizens and environment of the County from harmful, hazardous, and toxic effects and nuisances resulting from Mineral Resource Exploration and Extraction and Processing, including the degradation of air quality, surface and ground water quality and quantity, visual quality, soil erosion and land subsidence, noise and vibration, fire and explosion hazards, traffic, road impact safety and deterioration, and other potential effects;

11.14.1.3. To protect wildlife, wildlife corridors, wildlife habitat, and native biological diversity;

11.14.1.4. To protect the scenic quality of the County, which is critically important to its economy, from the potentially adverse effects of Mineral Resource Exploration and Extraction and Processing; and

11.14.1.5. To assure that public roads and utilities required for Mineral Resource Exploration and Extraction and Processing are adequately funded, built, improved, and maintained;

11.14.1.6. To assure that Mineral Resource Exploration and Extraction and Processing are compatible with other uses in the County, including traditional patterns of land use and development, recreational uses, and existing or planned urban or metropolitan areas;

11.14.1.7. To assure that the remediation and reclamation and closure of areas used or affected by Mineral Resource Exploration and Extraction and Processing complies with the requirements and standards of the SLDC and this Chapter;

11.14.1.8. To assure that sufficient Financial Assurance is provided to cover all potential costs of impacts associated with Mineral Resource Exploration and Extraction and Processing, remediation, and reclamation, and to protect the County’s taxpayers from bearing any cost related to mineral resource extraction and processing;

11.14.1.9. To provide the Applicant with notice of the process and issues that affect the County's review and decision regarding proposals to conduct Mineral Resource Exploration and Extraction and Processing; and

11.14.1.10. To provide for a fair and efficient system for the regulation of Mineral Resource Exploration and Extraction and Processing.

11.14.2. Applicability. This Section applies to all Mineral Resource Exploration and Extraction and Processing in the County.

11.14.2.1. All requirements of this Chapter shall apply to Mineral Resource Exploration and Extraction and Processing except when this Section establishes a more stringent requirement, in which case the more stringent requirement shall be applicable.

11.14.2.2. Mineral Resource Extraction and Processing on state or federal land shall be subject to this Chapter except to the extent prohibited by law. The Applicant bears the burden to demonstrate that a provision of this Chapter is prohibited, provided that such provision shall be construed and applied to avoid such effect.

11.14.2.3. A person may not engage in Exploration without first obtaining the Board's approval of a DCI Overlay Zoning District, including an exploration permit. An Applicant may obtain an exploration permit by submitting an exploration plan with its application for a DCI Overlay Zoning District. The Board may approve an exploration permit if the Applicant demonstrates that the proposed Exploration meets the provisions, standards and criteria of Sections 11.5, 11.8, 11.14.3 and 11.14.6, to the extent applicable. The Administrator may recommend, and the Board may impose reasonable conditions on an exploration permit.

11.14.2.4. No application for a permit to extract or process any uranium mineral or other radioactive mineral shall be considered until the County adopts a regulation for such activity that protects the public health, safety, and welfare, and the environment.

11.14.3. Design Criteria. A DCI Conditional Use Permit for Mineral Extraction and Processing shall not be issued unless the Applicant demonstrates compliance with these design criteria:

11.14.3.1. Mineral Resource Extraction and Processing shall not cause or contribute to the contamination or depletion of a water resource, in perpetuity;

11.14.3.2. All facilities shall be designed to withstand, at a minimum, the peak flow of a one thousand (1,000) year twenty-four (24) hour storm event with a twenty-five percent (25%) safety factor based on National Oceanic and Atmospheric Administration (NOAA) data for the area within the DCI Zone Overlay District;

11.14.3.3. All aspects of Mineral Resource Extraction and Processing shall be designed with water conservation as a primary concern;

11.14.3.4. Active or continuous treatment of water, air, or soil shall not be used for any purpose including to address any noncompliance with a standard, requirement, or criterion of the SLDC or this Chapter;

11.14.3.5. Compliance with any control measure to protect air, water, or soil, including any standard, requirement, or criterion of the SLDC or this Chapter, shall not be used to demonstrate compliance with these design criteria; and

11.14.3.6. All designs, including any alterations to designs, shall be certified by a Professional Engineer.

11.14.4. Application Requirements. In addition to the general requirements for DCI Conditional Use Permits, an application for Mineral Resource Extraction and Processing shall contain the following:

11.14.4.1. Applicant. The name, mailing address and telephone number of the Applicant;

11.14.4.2. Surface and Mineral Estates. A map showing surface and mineral ownership of the Mineral Resource Extraction and Processing and the land in the DCI Overlay Zone District, including the name, mailing address, and telephone number of each owner of each surface and mineral estate as shown by the most recent county assessor's property tax schedule;

11.14.4.3. Right of Entry. Proof of the applicant's right to enter onto and conduct Mineral Resource Extraction and Processing in the DCI Overlay Zone District;

11.14.4.4. State and Federal Permits. All relevant state and federal permits, including permits related to the protection of threatened and/or endangered species; and

11.14.4.5. Historic Land Use. A description of the present and historic land use in or within five (5) miles of the property boundaries of the DCI Overlay Zone District, including any existing or previous Mineral Resource Extraction and Processing, the land use in the area adjacent to the DCI Overlay Zone District and the area of proposed Mineral Resource Extraction and Processing, and the land capability, productivity and soils based on classifications published by the U.S. Soil Conservation Service.

11.14.4.6. Project Description.

1. a description of the type and method of proposed Mineral Extraction and Processing, including the mining and engineering techniques, the commodities to be produced, and other minerals that may be incidentally extracted, processed, or exposed;

2. a description of any abandoned or existing mines within five (5) miles of the property boundaries of the DCI Overlay Zone District;

3. a map at a scale approved by the Administrator that complies with the requirements of Section 11.5.8;

4. a description, map, and schedule of construction and operation, including the location and number of acres of land involved, for all facilities, including but not limited to:

a. leach pads;

b. stockpiles;

c. dumps;

d. impoundments;

e. ponds;

- d. diversions;
- e. disposal systems;
- f. pits;
- g. tailings disposal facilities;
- h. mills;
- i. water treatment facilities;
- j. air emission equipment;
- k. storage areas;
- l. topsoil and topdressings storage; and
- m. other facilities or structures.

11.14.4.7. Baseline Data Report. A baseline data report describing the existing environment of the DCI Overlay Zoning District as specified below. The data shall be collected over a period of not less than twelve (12) consecutive months as applicable. Prior to collecting a category of baseline data, the applicant shall submit SAPs described in Section 11.7.2.2. The report shall include the following:

1. the climatological factors, including precipitation, prevailing winds, temperature, and current NOAA data defining the one thousand (1,000) year storm event for the DCI Overlay Zoning District;
2. a topographic map showing the boundaries, location of all structures within one-half (1/2) mile, and all man-made features, at a scale of 1-inch equals 2000 feet (1:24,000) or as approved by the Administrator, and in paper and GIS formats following the requirements of Section 11.5.7;
3. a description and map showing existing vegetation types, including cover, density, and productivity, and, if the vegetation on site has been adversely impacted by previous activities, a description and map based on information from adjacent areas;
4. a description and map showing existing wildlife, including types, communities, and populations, and, if the wildlife on site has been adversely impacted by previous activities, a description and map based on information from adjacent areas;
5. state and federally listed sensitive, threatened or endangered plant species on the site and immediately adjacent properties;
6. state and federally listed sensitive, threatened or endangered wildlife species on the site and immediately adjacent properties;
7. a description and map showing cultural and archaeological sites and traditional cultural properties, including sites on or eligible for listing on the National Register

of Historic Places or the State Register of Cultural Properties, including a statement describing the Applicant's consultation with potentially affected tribes;

8. the topsoil, including its physical and chemical characteristics, suitability for reclamation, and depth and characteristics of A, B, and C horizons, if applicable;

9. the geology and mineralogy of each ore body and surrounding rock, including cross-sections of overburden, mineralized zones, and ore bodies; and

10. surface water and ground water:

a. a description and map showing the location and physical parameters of watersheds and surface waters, including streams, lakes, reservoirs, springs, watercourses, and riparian and wetland areas, classified as perennial, ephemeral, or intermittent;

b. a description and map showing the location and physical parameters of ground water, including depth, total dissolved solids, water chemistry, flows, gradients, transmissivity and storage capacity;

c. a description and map showing the location and physical parameters of man-made water features, including acequias, irrigation canals, sumps, and drains;

d. a description and map showing wells within two (2) miles of the property boundaries of the DCI Overlay Zoning District;

e. a description and map showing the surface and bedrock geology with cross sections clearly illustrating the lithologic units, structures, faults, fractures, mineralized zones, and water table, including whether a unit, structure, fault, fracture, or zone is water bearing, and the amount of water, variation in amount during the sampling period, flow, gradient, transmissivity, storage capacity, and collection area therein; and

f. a description and map showing the ownership of water rights in surface and ground water in the DCI Overlay Zoning District.

11.14.4.8. Contaminated Baseline and Legacy Uses. In the event that baseline conditions do not meet the standards of this Chapter and the SLDC, the Applicant shall submit a plan to remediate those conditions to acceptable levels prior to or concurrent with the commencement of Mineral Resource Extraction and Processing, provided however that the Board may exempt such remediation from the active treatment clause in Section 11.14.3.5. In the event that the DCI Overlay Zoning District contains a legacy mine or historic mining site, the Applicant shall submit a plan to reclaim the site on a phased schedule.

11.14.4.9. Environmental Impact Report. In addition to the requirements of Section 11.7.1.8, the Applicant shall submit additional information describing the environmental conditions expected to occur during and after Mineral Resource Extraction and Processing, including construction, operation, reclamation, post-reclamation, and conditions during and after a one thousand (1,000) year storm event based on NOAA data for the area within the DCI Overlay Zoning District, using geological, meteorological, hydrological, geochemical, and mineralogical modeling for each baseline described in Section 11.14.4.7, including:

1. the characteristics of each material to be extracted, processed, stored, deposited, exposed, or disposed, including waste rock, raw and spent ore, tailings, pits, walls, and underground workings;
2. the potential and nature of geochemical alteration of each material to be extracted, processed, stored, deposited, exposed, or disposed that could result in the leaching, acid generation, emission, or release of an air or water contaminant;
3. the nature and extent of sulfide mineralization, potential for acid generation, and any other geochemical alteration related to each material to be extracted, processed, stored, deposited, exposed, or disposed; and
4. the hydrologic effect, including any geochemical alteration, sulfide mineralization, and acid generation, related to construction, operation, reclamation, and post-reclamation, as demonstrated by cross sections and 3D models showing the location of pads, stockpiles, ponds, pits, walls, and underground workings, and other related features, potential fracturing in the geologic subsurface and their relation to the water table, hydrology, and mineralization.

11.14.4.10. Stormwater. A description of the proposed method for the management and disposal of stormwater runoff from disturbed and undisturbed ground to prevent clean water from entering any area containing a material that has been extracted, processed, stored, deposited, exposed, or disposed, and that captures any water that contacts a material that has been extracted, processed, stored, deposited, exposed, or disposed.

11.14.4.11. Sediment. A description of the proposed method for reduction and control of sediment transport.

11.14.4.12. Wastewater. A description of the proposed method for disposal of domestic waste, including the location and design of septic tanks and leachfields.

11.14.4.13. Solid Waste. A description of the proposed method for management and disposal of domestic and industrial solid waste, including the implementation of best practices for minimization and recycling.

11.14.4.14. Extraction and Processing. A description and map showing the proposed mining method, milling method, disposal of waste rock and tailings, and existing and proposed facilities, including:

1. open pit and underground mining facilities, including location, depth, size, acreage, and geology;
2. material handling and processing facilities, including crushing, milling, concentrating, smelting and solvent extraction and electrowinning;
3. ancillary facilities, including sumps, tanks, pipelines, transportation, and offices. The description shall include the location, purpose, construction material, and dimensions and capacity;
4. storage and disposal facilities, including tailing, process water, and stormwater impoundments, drainage channels, leach pads, waste rock stockpiles, and slag and residue piles. The description shall include the location, purpose, liner material,

and storage or disposal capacity; and

5. process and domestic water, including the location, construction method and material, dimension and capacity of wells, meters and pipes.

6. A mass balance table describing the quantity of each type of material mined or disturbed each year, including but not limited to soil, overburden, barren waste (less than 0.1% sulfur), waste, ore, tailings, and quantities of material disturbed for roads and site grading into and out of stockpiles.

11.14.4.15. Storage, Disposal, and Maintenance of Ore, Tailings, Waste Rock, and High Walls. A plan for handling each material extracted, processed, stored, deposited, exposed, or disposed, and each facility proposed for such use, in a manner that will not cause or contribute to the contamination of surface or ground water in perpetuity, signed and sealed by a Professional Engineer, taking into consideration the amount, intensity, duration, frequency of precipitation, and the watershed area, including the topography, geomorphology, soils, and vegetation.

11.14.4.16. Operating Plan. A plan describing the procedures for operating the facilities for Mineral Resources Extraction and Processing, including:

1. a schedule of anticipated periods of temporary cessation, including holidays or anticipated regular maintenance;

2. notification of appropriate regulatory authorities of temporary cessations, both scheduled and unscheduled;

3. a description of processes for containing leachate and runoff from materials that have been extracted, processed, stored, deposited, exposed, or disposed;

4. a description of processes and protocols for managing all fluids in the operation, including routine inspections of each facility;

5. a protocol for managing the facilities and fluids during emergencies and non-routine operations, temporary cessation, and closing, including:

a. emergency by-pass and containment procedures for each facility, including treatment facilities damaged or unable to keep up with demand;

b. procedures to cease operations during emergencies and non-routine operations;

c. labor requirements, including management and security, to cease operations and manage facilities during emergency and non-routine operations;

d. identification of potential hazards, including the generation and release of Hazardous Materials, during emergency and non-routine operations

e. monitoring plan to identify and characterize Hazardous Materials generated or released during emergency and non-routine operations;

- f. pump energy usage;
- g. estimated cost to cease operations and manage facilities during emergencies or non-routine operations;
- h. Health and Safety Plan complying with Mine Safety and Health Administration requirements; and
- i. procedures to stabilize facilities and return to regular operations.

11.14.4.17. Blasting Plan. A plan created by a qualified blasting firm or engineer which is knowledgeable of State of New Mexico requirements and National Fire Protection Association NFPA 495 (Explosive Materials Code), which identifies the maximum weight of explosives to be detonated on each occurrence, the type of explosive agent, maximum pounds per delay, method of packing, type of initiation device to be used for each hole, blasting schedule and noise and vibration limits not exceeding the standards set in Table 11.2.

11.14.4.18. Monitoring Plan. In addition to the requirements of Section 11.8.11, the Applicant shall submit a Monitoring Plan, including Quality Assurance/Quality Control (“QA/QC”) procedures, describing the collection and evaluation of data to ensure compliance with the standards of this Chapter and the SLDC, including:

1. representative samples of each material extracted, processed, stored, deposited, exposed, or disposed;
2. representative samples of ground and surface water, including each point of potential contact with a material that could leach, generate, or release a water contaminant;
3. hydrological tests to evaluate changes in flow, gradient, and water table; and
4. monitoring of operations to detect leaks and ensure proper function of facilities.

11.14.4.19. Wildlife Impact Mitigation Plan. The Applicant shall submit a Wildlife Impact Mitigation Plan developed by a professional biologist with expertise in wildlife impact mitigation and approved by the Administrator. The plan shall describe how wildlife impacts attributable to the proposed DCI will be eliminated or mitigated to the greatest extent possible.

11.14.4.20. Closure and Post-Closure Plans. The Applicant shall submit Closure and Post-Closure Plans, and shall update the plans annually. The plans shall be certified by a Professional Engineer approved by the Administrator. Following closure, a Professional Engineer shall prepare a final report describing the actions taken by the Permittee, the results of closure and post-closure monitoring, and a certification that the DCI Overlay Zoning District will comply with all applicable standards in perpetuity. The plans shall demonstrate compliance with the following standards:

1. **Removal.** All facilities not required to ensure compliance with the standards and requirements of the SLDC, this Chapter, and the DCI Conditional Use Permit shall be removed.

2. Secondary Containment Systems. Liner systems shall be tested for any potentially contaminating materials, remediated to comply with Section 11.14.3, and removed.

3. Leach (Spent Ore and Lean Ore) Facilities. Materials in leach facilities shall be detoxified using rinse/rest cycles and chemical oxidation. Following detoxification, leach facilities shall be closed by covering the materials as specified in Section 11.14.9.4, ponds associated with a heap-leach facility shall be closed by folding in the synthetic liners and filling and contouring the pits with inert material, residual sludge, spent ore, and lean ore shall be removed and disposed in an approved facility, and piping shall be removed.

4. Cover Systems. Cover systems shall be installed on waste rock piles, leach and spent ore facilities, tailing impoundments, and any other unit that has the potential to yield a contaminant, which is capable of containing the contaminant in perpetuity:

a. the cover system shall be constructed of thirty-six (36) inches of earthen materials that are capable of sustaining plant growth without perpetual care and have erosion resistant characteristics. The pile shall be shaped to be geomorphologically stable. Erosion rates shall be equal to or less than stable slopes in the surrounding area after the vegetation has reached near-equilibrium cover levels;

b. the cover system shall have the capacity to store within the fine fraction at least ninety-five (95) percent of the long-term average winter precipitation (December, January and February) or at least thirty-five (35) percent of the long-term average summer precipitation (July, August and September), whichever is greater. The water holding capacity shall be determined by multiplying the thickness of the cover by the incremental water holding capacity of the fine fraction of the cover. The incremental water holding capacity of the fine fraction of the cover shall be determined by field or laboratory tests or published estimates;

c. these design criteria may be modified only upon a demonstration that an alternate cover system, including a composite or layered cover incorporating a liner, will provide an equal or greater level of protection for surface and ground water standards; and

d. the cover system shall include monitoring and reporting for surface and ground water under and adjacent to the unit.

11.14.4.21. Reclamation.

1. a detailed description of the proposed post-mining land use within the DCI Overlay Zoning District, including the written approval of each surface owner for the proposed use;

2. a plan and cost estimate certified by a Professional Engineer with expertise in reclamation and approved by the Administrator, to reclaim the DCI Overlay Zoning District, including:

a. a description of the methods to be used;

- b. a description and map showing the schedule and acres to be reclaimed;
- c. a topographic map of the anticipated surface configuration after the completion of reclamation including cross sections on one hundred (100) foot centers showing the existing ground and the proposed reclaimed surface;
- d. a description of the potential for the generation of water contaminants after reclamation and how contaminants will be eliminated;
- e. a description of the measures for siting, designing, constructing, and managing facilities to ensure the success of reclamation;
- f. a mass balance table showing for each phase and year of operation, the quantity of topsoil salvaged and replaced, quantity of topsoil estimated to remain, the quantity of ore mined, and quantity of waste generated and placed in each storage facility; and
- g. a plan for salvaging and storing topsoil for use in reclamation.

11.14.4.22. Additional Information. Any additional information which the Administrator and the Board deems necessary to review the application.

11.14.5. Application Review. The Administrator may contract with, and the Applicant shall pay for, any consultant retained by the County to provide assistance in its review of the application.

11.14.6. Performance Standards and Conditions. The following performance standards shall apply to both operation and closure of a Mineral Resource Extraction and Processing operation to the extent applicable:

11.14.6.1. Hours of Operation. Hours of operation are limited to the period between sunrise or 7:00 a.m. whichever is latest, and sunset or 6:00 p.m., whichever is earliest, Monday through Saturday unless the Administrator recommends, and the Board determines that other hours of operation are more appropriate to meet the standards of this chapter and the SLDC.

11.14.6.2. Setbacks. Mineral Resource Extraction and Processing, and all related equipment, structures, and facilities:

1. shall be no closer than three hundred (300) feet to the boundaries of the DCI Overlay Zoning District and five hundred (500) feet from all public road rights-of-way, public recreational easements, and one hundred (100) year flood zones;
2. shall be no closer than one thousand (1,000) feet to the seasonal high water mark of any water body or seasonal watercourse, including a minimum one hundred (100) foot buffer zone of natural vegetation measured from the annual high water mark of a surface water, including a perennial, ephemeral, and intermittent body; and
3. shall be no closer than one half (1/2) mile to any Traditional Community Zoning District, Planned Development District Zoning District, or single-or multi-family dwelling, park, recreational use, or institutional structure, including churches, public buildings, and schools not within the DCI Overlay Zoning District.