

2013 JUL 17 PM 2: 63

LINCOLN COUNTY-NM
HINDA B HURDOW, CLERK
201304825
Book2013 Page 4825
1 of 115
07/17/2013 09:00:00 AM



**LINCOLN COUNTY, NEW MEXICO
SUBDIVISION ORDINANCE 2013-2**

**Amending, Repealing, and Reenacting
Ordinance 2008-01**

LINCOLN COUNTY, NEW MEXICO
SUBDIVISION ORDINANCE 2013-2

Amending, Repealing, and Reenacting
Ordinance 2008-01

TABLE OF CONTENTS

TABLE OF CONTENTS i

ORDINANCE 2013-2 1

ARTICLE 1 GENERAL PROVISIONS 1

 Section 1.1 Title 1

 Section 1.2 Authority 1

 Section 1.3 Purpose and Policy 1

 Section 1.4 Jurisdiction 1

 Section 1.5 Interpretation 2

ARTICLE 2 DEFINITIONS 2

ARTICLE 3 PRE-APPLICATION PROCESS 11

 Section 3.1 Pre-Application Procedures 11

 Section 3.1.1 Conference 11

 Section 3.1.2 Summary Procedure Conference 11

 Section 3.1.3 Scheduling 11

 Section 3.1.4 Fee 12

 Section 3.1.5 Statements Non-Binding 12

 Section 3.1.6 Application/Forms 12

 Section 3.1.7 Notification and Meeting with Surrounding Property Owners 12

 Section 3.2 Pre-Application Data Requirements 12

 Section 3.2.1 Sketch Plat 12

 Section 3.2.2 Additional Information 12

ARTICLE 4 PRELIMINARY PLAT REVIEW PROCESS 12

 Section 4.1 Preliminary Plat Submittal 12

 Section 4.2 State Agency review 13

 Section 4.2.1 Plat Transmittal 13

 Section 4.2.2 Requests for Opinions and Review 13

 Section 4.2.3 Agency Response 13

 Section 4.2.4 Agency Fees 14

 Section 4.2.5 Hearing Deadlines 14

 Section 4.2.6 Adverse Opinion 14

2013 JUL 17 PM 2:03

Section 4.2.7	Revised Opinion	14
Section 4.2.8	Onsite Inspections	14
Section 4.2.9	State and Federal Review of Defensible Space	14
Section 4.2.10	Planning Commission Conclusions in Writing	15
Section 4.2.11	Cursory Review	15
Section 4.3	Public Hearing on Preliminary Plats	15
Section 4.3.1	Scheduling	15
Section 4.3.2	Notice	15
Section 4.3.3	Notification	15
Section 4.3.4	Participation/Record	16
Section 4.3.5	Action	16
Section 4.4	Expiration of Preliminary Plat	16
Section 4.4.1	Expiration	16
Section 4.4.2	Phased Development	16
Section 4.4.3	Extension	16
Section 4.4.4	Expiration Effect	17
Section 4.5	Disclosure Statement	17
Section 4.6	Lot Split	17
ARTICLE 5	PLAT DATA REQUIREMENTS	17
Section 5.1	Requirements the Same for Preliminary and Final Plats	17
Section 5.2	Plat Format	17
Section 5.3	Plat Content	17
Section 5.3.1	Plat Inclusions	17
Section 5.3.2	Affidavit	19
Section 5.3.3	Dedication	19
Section 5.3.4	Conformity	19
Section 5.3.5	Land Sales Act	19
Section 5.3.6	Recording	20
ARTICLE 6	FINAL PLAT REVIEW PROCESS	20
Section 6.1	Conformity	20
Section 6.2	Final Plat Submittal	20
Section 6.3	Decision on Final Plat	20
Section 6.3.1	Action	20
Section 6.3.2	Denial	20
Section 6.3.3	Development Agreement	20
Section 6.3.4	Failure to Act	20
Section 6.4	Advertising Standards	21
Section 6.4.1	Brochures, Disclosure Statements, Publications and Advertising ..	21
Section 6.4.2	Copies of All Brochures, Publications and Advertising Shall Be Filed	21
Section 6.5	Requirements Prior to Sale, Lease or Other Conveyance	21
Section 6.5.1	Final Plat Approval	21

2013 JUL 17 PM 2: 03

Section 6.5.2	Relevant Documents	22
Section 6.5.3	Permanent Mark	22
Section 6.5.4	Maintenance Bonds and Performance Bonds	22
Section 6.5.5	Requirement for Construction to Commence	22
Section 6.6	Recording Parcels	22
Section 6.6.1	Authority	22
Section 6.6.2	Purpose	23
Section 6.6.3	Requirement	23
Section 6.6.4	Form and Certification	23
Section 6.6.5	Plat Attachment	23
ARTICLE 7	SUMMARY REVIEW PROCESS	23
Section 7.1	Summary Review Procedure	23
Section 7.1.1	Qualifications	23
Section 7.1.2	Conference Required	24
Section 7.1.3	Application Fees	24
Section 7.1.4	Plat Deemed Complete	24
Section 7.1.5	Public Meeting	24
Section 7.1.6	Improvement Agreement	24
Section 7.1.7	Failure to Act	24
Section 7.2	Summary Review Data Requirements	24
Section 7.2.1	Filing Specifications	25
Section 7.2.2	Map Specifications	25
Section 7.2.3	Affidavit	25
Section 7.2.4	Dedication	26
Section 7.2.5	Disclosure Statement	26
Section 7.2.6	Land Sales Act	26
Section 7.2.7	Advertising Standards	26
Section 7.2.8	Proof of No Delinquent Taxes	26
ARTICLE 8	SPECIAL PROCEDURES	26
Section 8.1	Succeeding Subdivisions	26
Section 8.1.1	Standards	26
Section 8.2	Replat	27
Section 8.2.1	Definition	27
Section 8.2.2	Procedure	27
Section 8.3	Vacation of Plats	27
Section 8.3.1	Cause	27
Section 8.3.2	Request for Vacation	27
Section 8.3.3	Review Period	27
Section 8.3.4	Action	28
Section 8.3.5	Filing	28
Section 8.3.6	Utility Rights	28
Section 8.4	Variances	28

2013 JUL 17 PM 2:03

Section 8.4.1	Cause	29
Section 8.4.2	Required Filings	29
Section 8.4.3	Warrants	29
Section 8.4.4	Procedures	29
Section 8.4.5	Conditions on Variances	30
Section 8.4.6	Notification of Action	30
Section 8.5	Exemptions	30
Section 8.5.1	Approval Required	30
Section 8.5.2	Verification of Exemption	30
Section 8.6	Protection of Unmarked Burials, Cultural Properties, and Archaeological Sites	31
Section 8.6.1	Unmarked Human Burials	31
Section 8.6.2	Registered Cultural Properties	31
ARTICLE 9	ADMINISTRATIVE FEES	31
ARTICLE 10	APPEALS	31
Section 10.1	Who May Appeal	31
Section 10.1.1	Lincoln County Planning Commission	31
Section 10.1.2	Board of County Commissioners	32
Section 10.2	Appeal Process	32
Section 10.2.1	Nature of Review	32
Section 10.2.2	Standing	32
Section 10.2.3	Notice of Appeal	32
ARTICLE 11	ENFORCEMENT, PENALTIES AND REMEDIES	32
Section 11.1	Investigation of Alleged Violations	32
Section 11.2	Penalties and Remedies	33
Section 11.2.1	Utility Connections	33
Section 11.2.2	Suspension of Right of Sale	33
Section 11.2.3	Injunctive Relief, Mandamus	33
Section 11.2.4	Bond Not Required	33
Section 11.2.5	Criminal Penalties	33
ARTICLE 12	ROAD DESIGN STANDARDS	34
Section 12.1	General	34
Section 12.2	Road Construction Plans	34
Section 12.3	Street Layout	34
Section 12.4	Half Streets Prohibited	35
Section 12.5	Adjacent Highway	35
Section 12.6	Private Roads	35
Section 12.7	Road Design	36
Section 12.8	Road Construction Guidelines	36
Section 12.9	Curve Radii and Super Elevation	37

2013 JUL 17 PM 2: 03

Section 12.10	Intersections	37
Section 12.11	Cul-de-sacs	37
Section 12.12	Road Dedication	37
Section 12.13	Preliminary Road Acceptance	38
Section 12.14	Final Road Acceptance	38
Section 12.15	Road Requirements	38
Section 12.16	Road Surfaces	39
Section 12.17	General Road Section and Appurtenances Drawings	41
ARTICLE 13	REQUIRED IMPROVEMENTS	46
Section 13.1	Water and Sewer Systems	46
Section 13.2	Development Package	47
Section 13.3	Accessory Documents	47
Section 13.4	Covenants	48
Section 13.5	Disclosure Statement	48
Section 13.6	Engineering and Technical Documents	48
Section 13.7	Development Plan Requirements	48
Section 13.7.1	Rights-of-Way Widths	48
Section 13.7.2	Blocks	48
Section 13.7.3	Lots	49
Section 13.7.4	Egress and Ingress	49
Section 13.7.5	Double Frontage Lots Should Be Avoided	49
Section 13.7.6	Easements and Rights-of-Way	49
Section 13.7.7	Buffer Strips	49
Section 13.7.8	Parking	50
Section 13.7.9	Utilities	50
Section 13.7.10	Signage	50
Section 13.7.11	Solid Waste Disposal	50
ARTICLE 14	FLOOD CONTROL AND DRAINAGE PLAN	50
Section 14.1	Development on Floodways Prohibited	50
Section 14.2	Drainage Design (Minimum Standards and Requirements)	51
Section 14.3	Drainage Structures	51
Section 14.4	Drainage Plan Requirements	52
ARTICLE 15	MOBILE HOMES	52
Section 15.1	Pertinent Requirements	52
Section 15.2	Additional Design Criteria	53
Section 15.3	Application of Criteria, Most Stringent Shall Govern	54
ARTICLE 16	TERRAIN MANAGEMENT PLAN	54
Section 16.1	Terrain Management Plan	54
Section 16.2	Maps Required	54

2013 JUL 17 PM 2:03

Section 16.3	Cut and Fill Slope Grading and Erosion	55
Section 16.4	Soils	55
Section 16.5	Utilities	56
Section 16.6	Lot Design (Relating to Terrain Features)	56
Section 16.7	Removal of Cleared Vegetation	56
ARTICLE 17	WATER AVAILABILITY PLAN	56
Section 17.1	General Review Procedures for Water Supply Plans	56
Section 17.2	General Requirements and Submittals for a Water Supply Plan ...	56
Section 17.2.1	Requirements Dependent on Type and Scale of Development and Amount of Water Use	56
Section 17.2.2	Required Water Right Permits	56
Section 17.2.2a	All Subdivisions	56
Section 17.3	Water Availability Assessments	57
Section 17.3.1	Requirements for Water Availability Assessments	57
Section 17.3.1.a	Quantification of Annual Water Requirements	57
Section 17.3.1b	Source of Supply New Surface Water Diversion and Community System	57
Section 17.3.1.c	Water Conveyance and Delivery	57
Section 17.3.1.d	Limitations and Restrictions on Water Usage	57
Section 17.3.1.e	Monitoring of Water Usage	57
Section 17.3.1.f	Source of Supply Existing Community or Municipal Water Supply System	58
Section 17.3.1g	Developments of Five (5) or Fewer Lots	58
Section 17.3.2	New Community Wells and Community Water Systems	58
Section 17.3.2a	Hydrologic Report	58
Section 17.3.2b	Applicant Shall Drill Sufficient Exploratory Wells	58
Section 17.3.2c	Applicant Shall Provide a Calculated Forty (40) Year Schedule ...	58
Section 17.3.2d	Applicant Shall Calculate Lowest Practical Pumping Water Level .	58
Section 17.3.2e	All Hydrologic Information Pertinent to the Study Area	59
Section 17.3.3	For New Surface Water Diversions and Community Systems Using Surface Water	59
Section 17.3.4	Community Water Systems with Existing Utility Companies as Source of Water Supply	59
Section 17.3.5	Subdivisions of Five (5) or Fewer Lots	60
Section 17.3.5a	Source Existing Community Water System or Municipal Water System	60
Section 17.3.5b	Applicant Proposes New Wells or Surface Diversion for Community System	60
Section 17.4	Community Water Systems	60
Section 17.4.1	Requirements For Community Water System	60

2013 JUL 17 PM 2:03

Section 17.4.1a	Developer Shall Provide Water From Existing or Proposed Water Systems	61
Section 17.4.1b	Completion of Proposed Water Supply Systems	61
Section 17.4.1c	Fire Flow Requirements	61
Section 17.4.1d	Sufficient Potable Water	61
Section 17.4.1e	Distribution Mains	61
Section 17.4.1f	Drilling or Use of Individual and/or Shared Domestic Wells Prohibited	61
Section 17.4.1g	Public Utility Act	61
Section 17.4.2	Submittals for Community Water Systems	61
Section 17.4.2a	Volume and Peak Rate of Production	61
Section 17.4.2b	Plans Prepared by Professional Engineer	61
Section 17.4.2c	Legal Description Necessary	62
Section 17.4.2d	Specific Site Plans	62
Section 17.4.2e	Well Plans	62
Section 17.4.2f	Agreement	62
Section 17.4.3	Review of Community Water Systems	62
Section 17.4.3a	County Planner's Considerations	62
Section 17.4.3b	County Encourages Use	62
Section 17.4.4	Approval of Lincoln County Board of Commissioners Required Prior to Transfer of Community Water System	63
Section 17.5	Water Quality Requirements	63
Section 17.5.1	Water Quality Documentation	63
Section 17.5.1a	Contents of Package	63
Section 17.5.1b	Contents When New Community System	63
Section 17.5.1c	Contents When Existing Community System	64
Section 17.5.1d	Documentation of Approval Form New Mexico Environment Department	64
Section 17.5.2	Water Quality Specifications	64
Section 17.5.2a	Level of Contaminant Shall Not Exceed MCL	64
Section 17.5.2b	Level of Contaminant Shall Not Exceed SMCL	65
Section 17.5.2c	Setback Distances	67
Section 17.5.2d	Disclosure Statement	67
Section 17.6	Well Construction	67
Section 17.7	Wells	67
ARTICLE 18	WATER CONSERVATION AND FIRE PROTECTION	67
Section 18.1	General Requirements	67
Section 18.2	Water Budgets and Conservation Covenants	67
Section 18.2a	Water-Saving Fixtures	67
Section 18.2b	Evaporative Coolers	68
Section 18.2c	Dishwashers	68
Section 18.2d	Washing Machines	68

2013 JUL 17 PM 2:03

Section 18.2c	Dishwashers	68
Section 18.2d	Washing Machines	68
Section 18.2e	Low Water Use Landscaping	68
Section 18.2f	Community Water System Service Connections	68
Section 18.2g	Water Restriction Covenants	68
Section 18.3	Water Distribution Mains	68
Section 18.4	Water Pressure Reducing Valve	68
Section 18.5	Fire Protection Plan and Required Improvements	68
Section 18.5.1	Storage Capacity	69
Section 18.5.2	Fire Flow	69
Section 18.5.3	Fire Protection for Development	69
Section 18.5.4	Insurance Services Office Protection Rating	69
Section 18.5.5	Engineering Design Plans for Fire Protection System	69
Section 18.5.6	Water Line Extensions	69
Section 18.5.7	Residential Fire Hydrants Flow	69
Section 18.5.8	All Fire Hydrants' Spacing	69
Section 18.5.9	Fire Hydrants Testing	69
Section 18.5.10	Dead End Roads	69
Section 18.5.11	Approved Fire Protection Plan	69
ARTICLE 19	LIQUID WASTE MANAGEMENT PLAN	69
Section 19.1	Liquid Waste Management Plan	69
Section 19.2	Livestock Waste	69
Section 19.3	Requirements for Community Liquid Waste System	69
Section 19.4	Information Requirements for Community Liquid Waste System ..	70
Section 19.5	Requirements for Individual Liquid Waste Disposal Systems	71
Section 19.6	Soil Limitations for Individual Liquid Waste Disposal Systems	71
Section 19.7	Minimum Lot Size for Individual Liquid Waste Disposal Systems ..	72
Section 19.8	Submittals for Individual Liquid Waste Disposal Systems	72
ARTICLE 20	CHANGES OR AMENDMENTS	74
ARTICLE 21	SEVERABILITY	74
ARTICLE 22	REPEAL AND EFFECTIVE DATE	74

2013 JUL 17 PM 2: 03

TABLES:

Table T-2	Types of Subdivisions	10
Table T-12.16	Standard Specifications for Highway and Bridge Construction	39
Table T-17.5.2(a)	Level of Contaminant (MCL)	64
Table T-17.5.2(b)	Secondary (Esthetic Related) Contaminants (SMCL)	66
Table T-17.5.2(c)	Setback Distances for Water Supply Sources	66
Table T-19.8(A.1)	Soil Category for Individual Liquid Waste Systems	72
Table T-19.8(A.2)	Setback Distances for Individual Liquid Waste Systems	73
Table T-19.8(B)	Combination Water and Sewer Systems	73

APPENDIX of FORMS:

- A. Application for Preliminary Plat Approval**
- B. Application for Final Plat Approval**
- C. Application for Summary Review Plat Approval**
- D. Application for a Variance**
- E. Notice of Appeal**
- F. Claim of Exemption**
- G. Disclosure Statement (fewer than five (5) parcels)**
- H. Disclosure Statement (six (6) or more parcels)**

1
2
3
4
5
6
7
8
9

2013 JUL 17 PM 2:03

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

ORDINANCE 2013-2

AN ORDINANCE AMENDING LINCOLN COUNTY SUBDIVISION RULES AND REGULATIONS; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF; PROVIDING AN EFFECTIVE DATE, AND THE REPEAL OF ORDINANCE NO. 2008-01.

ARTICLE 1 GENERAL PROVISIONS

Section 1.1 Title

This Ordinance shall be known and may be cited as the Lincoln County, New Mexico, Subdivision Ordinance.

Section 1.2 Authority

This Ordinance is created pursuant to the enabling authority set forth in NMSA 1978, §§47-6-1, *et seq.*; NMSA 1978, §§4-37-1, *et seq.*; and NMSA 1978, §§3-20-5, 3-20-6, and 3-20-9.

Section 1.3 Purpose and Policy

This Ordinance is to provide for the harmonious development of unincorporated areas within existing or planned streets of Lincoln County; for adequate open space for traffic, recreation, light, and air; and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, and welfare. It should be noted that approval of a subdivision may impact surrounding properties through an increase in assessed valuation of properties adjacent to a newly created subdivision.

The scenic corridors, streams, natural and historical sites of Lincoln County constitute community assets upon which the area's economy depends. Subdivision proposals shall be approved only when it has been demonstrated that these assets are protected to the maximum extent possible. The Planning Commission will insure that the integrity of the environment is preserved in the planning and development of a subdivision.

Section 1.4 Jurisdiction

2013 JUL 17 PM 2:03

1 This "Subdivision Ordinance" shall govern all platting or replatting of areas within Lincoln County not within
2 the boundaries of a municipality, except that, when land proposed for a subdivision lies within the
3 extraterritorial jurisdiction of an incorporated municipality, the more stringent subdivision regulation will
4 apply.

5
6 At any time that the development is not in compliance with the disclosure time line and falls delinquent by
7 six (6) months, the County Commission may exercise its right to revoke approval.

8
9 Upon approving a subdivision plat, the Commission expressly reserves jurisdiction to subsequently determine
10 whether plat approval relative to subdivider's unsold portions of the plat should be suspended or revoked
11 because of:

- 12
- 13 A. any material misstatement or error of fact in the disclosure statement or any information upon
14 which the Commission relied; or
- 15
- 16 B. a subsequent failure to comply with any provision of the disclosure statement or a subsequent
17 failure to comply with County regulations.
- 18

19 **Section 1.5 Interpretation**

20
21 The provisions of this Ordinance are held to be minimum requirements. Whenever any provisions of this
22 Ordinance conflict with other laws, rules, regulations, covenants, or ordinances, the more restrictive shall
23 govern. This Ordinance shall be construed broadly to promote the purposes for which they were adopted.

24
25 **ARTICLE 2 DEFINITIONS**

26
27 For the purpose of this Ordinance, certain words and terms are herewith defined: The singular includes the
28 plural and plural includes the singular; the word "shall" is mandatory and not discretionary:

- 29
- 30 A. "Absorption field" means an area in which open joint or perforated piping is laid in gravel-packed
31 trenches or excavations for the purpose of distributing the effluent discharged from a tank used as part
32 of an individual liquid waste disposal system for absorption into the soil.
- 33
- 34 B. "Advanced sewer treatment system" means any process of wastewater treatment that removes a
35 greater amount of contaminant than is accomplished through primary treatment; advanced treatment
36 may include physical or chemical processes.
- 37
- 38 C. "Aerobic disposal system" means a tank where air is introduced to the liquid waste by mechanical
39 means, together with an absorption field.
- 40
- 41 D. "Applicant" means the owner of land proposed to be subdivided or their representative who shall have
42 express written authority to act on behalf of the owner. Written consent shall be required from the
43 legal owner of the land to be subdivided in the event someone other than the owner is authorized to
44 represent the owner.
- 45

2013 JUN 17 PM 2:01

- 1 E. "Arroyo" means a water course which conducts intermittent or ephemeral flow, providing primary
2 drainage for an area of land 40 acres or larger; or a watercourse which would be expected to flow in
3 excess of 100 cubic feet per second as the result of a 100-year storm event.
4
- 5 F. "Block" means the distance measured along a street between intersection streets from center line; and
6 where the context requires, it also means the enclosed area within the perimeter of the streets or
7 property lines enclosing it.
8
- 9 G. "Board of County Commissioners" means the governing board of the County.
10
- 11 H. "Body of water" means all water situated wholly or partly within or bordering upon this State,
12 whether surface or subsurface, public or private.
13
- 14 I. "Buffer strip" means the land:
15
16 1. adjoining a watercourse or drainage channel with a vertical bank of at least forty-five
17 degrees (45°); and
18
19 2. extending perpendicularly from the vertical bank of the watercourse or drainage channel to
20 a distance three (3) times the depth of the watercourse or drainage channel measured from
21 the bottom of the watercourse or drainage channel to the top of the highest bank.
22
23 3. The area adjacent to highway, railroads and other objectionable land usages.
24
- 25 J. "Building setback line" means a line on a plat, between which line and street right-of-way line no
26 building or structure may be erected.
27
- 28 K. "Commission" means the Planning Commission.
29
- 30 L. "Common Promotional Plan" means a plan or scheme of operation, undertaken by a single subdivider
31 or a group of subdividers acting in concert, to offer for sale or lease parcels of land where the land
32 is either contiguous or part of the same area of land or is known, designated or advertised as a
33 common unit or by a common name.
34
- 35 M. "Community water system" means a water supply system that serves 15 connections, or 25 or more
36 people 60 days or more per year.
37
- 38 N. "Condominium" means real estate, portions of which are designated for separate ownership and the
39 remainder of which is designated for common ownership solely by the owners of those portions. Real
40 estate is not a condominium unless the undivided interests in the common elements are vested in the
41 unit owners as defined in the New Mexico Condominium Act, NMSA 1978, §§47-7A-1 to 47-7D-20
42 (1995 Repl.). For the purpose of determining the number of parcels in a subdivision, each proposed
43 dwelling unit or Condominium shall be counted as one (1) parcel.
44
- 45 O. "Community Liquid Waste Treatment System" means a system serving two (2) or more parcels for
46 the collection and treatment of liquid waste.
47

2013 JUL 17 PM 2:04

- 1 P. "County" means the Lincoln County Board of Commissioners.
- 2
- 3 Q. "County Clerk" means the County Clerk of Lincoln County, State of New Mexico.
- 4
- 5 R. "County Engineer" means the County Engineer for Lincoln County, State of New Mexico, or his duly
- 6 authorized representative, employed on a consulting basis as such services are needed.
- 7
- 8 S. "County Manager" means the County Manager of Lincoln County, State of New Mexico.
- 9
- 10 T. "Disclosure Statement" means a submittal that details in writing certain specified information
- 11 required by the New Mexico Subdivision Act and this Ordinance prior to selling or leasing any land
- 12 to permit a prospective purchaser or a lessee to make an informed decision about the purchase or lease
- 13 of said land, a copy of which is sent to the Attorney General's Office.
- 14
- 15 U. "Drainage channel" means any depression into which storm water flows along a defined course.
- 16
- 17
- 18 V. "Drainage Plan" means a plan indicating an on-site drainage proposal, the passage of storm water
- 19 through the development, and safe discharge of run-off onto adjacent lands or into storm drainage
- 20 facilities. Also, a comprehensive analysis of (a) the existing storm drainage conditions of a proposed
- 21 development, and (b) the disposal of the increased run-off that is generated by the proposed
- 22 development.
- 23
- 24 W. "Driveway" means an access to one residential dwelling giving access from a cut that intersects a
- 25 County road or state road or public thoroughfare to a building or prospective building site.
- 26
- 27 X. "Dwelling Unit" means any building or portion thereof which contains living facilities, including
- 28 provisions for sleeping, eating, cooking and sanitation for not more than one family.
- 29
- 30 Y. "Easement" means a right or privilege that a person or persons may have in another's land, such as
- 31 the right of passage, on which no permanent structure that denies access can be constructed.
- 32
- 33 Z. "Engineering interpretations" means the involvement of a Professional Engineer registered in the
- 34 State of New Mexico to study, analyze, report on, and otherwise offer opinions concerning topics
- 35 which include but are not limited to soils, environment, water, sewage, streets and water crossings,
- 36 all as they relate to the content and objectives of this Ordinance.
- 37
- 38 AA. "Erosion" means soil movement due to wind or water.
- 39
- 40 BB. "Erosion control structure" means any man-made device preventing or controlling erosion.
- 41
- 42 CC. "Flight zone" an overlay of that area around airports which are subject to uses, height and location
- 43 restrictions to separate uncontrollable noise sources from noise sensitive areas and facilitate the
- 44 orderly development of those areas it overlays.
- 45
- 46 DD. "Flood control" means the measures necessary or taken to protect the public's health, safety or
- 47 welfare from the effects of flooding.

2013 11 17 PM 2:01

- 1 EE. "Floodway" is the portion of a drainage channel containing high velocities and potentially erosive
2 conditions. It is the main channel of a floodplain which does not include the flood fringe. More
3 technically, it is that portion of the available flow cross section of a drainage that cannot be obstructed
4 without causing an increase in the water-surface elevations resulting from a flood with a 100-year
5 average return period of more than one foot. Structures are generally not allowed within the floodway.
6
- 7 FF. "Flood fringe" means the area of the floodplain outside of the floodway. Development of habitable
8 structures may be constructed in the flood fringe with special requirements such as raising the
9 finished floor with non-erosive fill 1' above the 100-yr flood.
10
- 11 GG. "Floodplain" means any area which will be flooded by high water from a one hundred (100) year
12 frequency storm (a one percent [1%] chance of occurrence in one [1] year).
13
- 14 HH. "Hydrologic report" means a report prepared by a qualified hydrogeologist on subsurface water
15 availability.
16
- 17 II. "Hydrologic report" means a report prepared by a qualified hydrogeologist on surface or subsurface
18 water availability.
19
- 20 JJ. "Immediate family member" means a husband, wife, father, stepfather, mother, stepmother, brother,
21 stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, stepgrandson,
22 granddaughter, stepgranddaughter, nephew and niece, whether related by natural birth or adoption.
23
- 24 KK. "Indian Nation, Tribe or Pueblo" means any Federally recognized Indian Nation, Tribe or Pueblo
25 located wholly or partially in New Mexico.
26
- 27 LL. "Individual liquid waste disposal system" means a disposal system which serves an individual
28 dwelling or parcel and includes, but it is not limited to, septic tank systems, aerobic disposal systems
29 and vapotranspiration systems.
30
- 31 MM. "Lease" means to lease or offer to lease land.
32
- 33 NN. "Liquid waste" means domestic wastewater containing human excreta, fecal matter, or other water-
34 carried waste.
35
- 36 OO. "Livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch,
37 including the carcasses thereof, and exotic animals in captivity and includes horses, asses, mules,
38 cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae
39 (reference NMSA 77-2-1.1).
40
- 41 PP. "Local district" means any natural resource conservation district within the County in which the
42 proposed subdivision is located.
43
- 44 QQ. "Lot" means parcel.
45

2013 JUL 17 PM 2:04

- 1 RR. "Maintenance bond" is a form of security required by the County of Lincoln after the construction
- 2 of developer provided improvements of a subdivision have been completed and is required to be
- 3 maintained through the test period.
- 4
- 5 SS. "mg-l" means milligrams per liter.
- 6
- 7 TT. "mmc" means micro-micro curie.
- 8
- 9 UU. "Mobile home" means a manufactured structure at least 8' x 32' which can be transported in one (1)
- 10 or more sections, each on its own permanently attached chassis and which is designed or intended for
- 11 a use as a dwelling with or without a fixed foundation.
- 12
- 13 VV. "Occupancy" means a permanent residence has been constructed and is connected with all primary
- 14 utilities. Permanent residence may include a mobile home, but does not include travel trailers or
- 15 temporary structures.
- 16
- 17 WW. "Owner" means any person or his successor in interest who purchases or leases land within a
- 18 subdivision from a subdivider.
- 19
- 20 XX. "Parcel" means land capable of being described by location and boundaries and not dedicated for
- 21 public or common use.
- 22
- 23 YY. "Parcel, double frontage" means a continuous (through) parcel the same depth as the width of a block
- 24 and which is accessible from both of the streets upon which it fronts.
- 25
- 26 ZZ. "Parcel, single tier" means a parcel which backs upon a limited access highway, a railroad, a physical
- 27 barrier, or a non-residential use and to which vehicular access from the rear is usually prohibited.
- 28
- 29 AAA. "Performance bond" is a form of security required by the County of Lincoln, required to be obtained
- 30 by a Subdivider prior to and during the construction of developer provided improvements of a
- 31 subdivision.
- 32
- 33 BBB. "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation,
- 34 company, firm, partnership, joint venture, syndicate, or other legal entity.
- 35
- 36 CCC. "Phase" means a portion of a multi-unit subdivision which is intended to be developed as a unit.
- 37
- 38 DDD. "Planning Commission" means the officially appointed Planning Commission of Lincoln County,
- 39 New Mexico.
- 40
- 41 EEE. "Planning Department" means a department of Lincoln County government that includes staff with
- 42 responsibilities for administering these Regulations as well as the Comprehensive Plan and the
- 43 Lincoln Historical Zoning Ordinance.
- 44
- 45 FFF. "Planning Director" means the director of planning and/or his or her designee, responsible for
- 46 administering these Regulations.
- 47

2013 JUN 17 PM 12:04

- 1 GGG. "Plat" means a map, chart, survey, plan or replat, certified by a licensed registered land surveyor,
2 containing a description of the subdivided land with ties to permanent monuments.
3
- 4 HHH. "Plat, Final" means a map, chart, survey, plan or replat, certified by a licensed, registered land
5 surveyor, containing a description of the subdivided land with ties to permanent monuments prepared
6 in a form suitable for filing of record.
7
- 8 III. "Plat, Preliminary" means a map of a proposed subdivision showing the character and proposed layout
9 of the subdivision and the existing conditions in and around it, and need not be based upon an
10 accurate and detailed survey of the land.
11
- 12 JJJ. "Potable water" means water that is safe and palatable for human consumption.
13
- 14 KKK. "Private road" means any road that is not dedicated to or maintained by the County.
15
- 16 LLL. "Private water system" means a water supply system that serves fewer than 15 connections or fewer
17 than 25 people.
18
- 19 MMM. "Privy" means any non-water-carried disposal facility for human excreta.
20
- 21 NNN. "Public Hearing" means any proceeding held by the Board of County Commissioners or the Planning
22 Commission preceded by notice at which time and place applicants and other members of the public
23 may be heard on matters listed on the Commission's agenda.
24
- 25 OOO. "Replat" means a change in a map of an approved or recorded subdivision plat, if such change affects
26 any street layout on such map or area reserved thereon for public use, or any lot line, or if it affects
27 any map or plan legally recorded prior to the adoption of any regulation controlling subdivisions.
28
- 29 PPP. "Sediment" means soil or other surface material transported by wind or surface water.
30
- 31 QQQ. "Sell" means to sell or offer to sell land.
32
- 33 RRR. "Septic tank system" means a tank which is designed and constructed to separate solids from the
34 liquid and digest organic matter through a period of detention, together with an absorption field.
35
- 36 SSS. "Soil survey" means a national cooperative soil survey conducted by the United States Department
37 of Agriculture in cooperation with the State Agriculture Experiment Station and other federal and
38 state agencies or any other survey containing information of comparable quality and detail approved
39 by the local district.
40
- 41 TTT. "Solid waste" means any solid or semi-solid discarded material which results from household,
42 commercial, industrial, or other operations, but does not include waterborne waste in sewerage
43 system.
44
- 45 UUU. "Street" means all property dedicated or intended for public use or access to abutting lands

2013 JUL 17 PM 2:04

1 or subject to public easement, and whether designated as a street, highway, thoroughfare, parkway,
2 throughway, expressway, road, avenue, boulevard, lane, place, circle or however otherwise designated.

3
4 VVV. "Street, arterial" means a street of considerable length that carried, or that planning evidence
5 indicated will carry a large volume of traffic; or which provides a continuous route through a major
6 portion of the County or any urbanized area within the County.

7
8 WWW. "Street, collector" means a street that serves as a connection between several local streets and one (1)
9 or more arterial streets.

10
11 XXX. "Street, cul-de-sac" means a local street with only one (1) outlet and culminated by a
12 turnaround.

13
14 YYY. "Street, local" means a street of relatively short length that provides direct access to a limited
15 number of abutting properties and protection from through traffic and control of intersections
16 with major traffic streets.

17
18 ZZZ. "Street, roadway" means that portion of the street available for vehicular traffic and, where
19 curbs are laid, the portion from back-to-back curbs.

20
21 AAAA. "Street section" means the typical cross section, including but not limited to the combined surface
22 course, base course, sub base, and prepared sub grade, all as applicable, considered as a single unit.

23
24 BBBB. "Subdivide" means to divide a surface area of land into a subdivision.

25
26 CCCC. "Subdivider" means any person who creates or who has created a subdivision individually
27 or as part of a common promotional plan or any person engaged in the sale, lease or other conveyance
28 of subdivided land; however, "subdivider" does not include any duly licensed real estate broker or
29 salesperson acting on another's account.

30
31
32 DDDD. "Subdivision" means the division of a surface area of land, including land within a previously
33 approved subdivision, into two or more parcels for the purpose of sale, lease or other conveyance or
34 for building development, whether immediate or future; but "Subdivision" does not include:

- 35
36 1. The sale, lease, or other conveyance of any parcel that is thirty-five acres or larger in size
37 within any twelve month period, provided that the land has been used primarily and
38 continuously for agricultural purposes, in accordance with NMSA 1978, §7-36-20, for the
39 preceding three years;
- 40
41 2. The sale or lease of apartments, offices, stores or similar space within a building;
- 42
43 3. The division of land within the boundaries of a municipality;
- 44
45 4. The division of land in which only gas, oil, mineral or water rights are severed from the
46 surface ownership of the land;
- 47

2013 JUL 17 PM 2:04

- 1 5. The division of land created by court order, where the order creates no more than one parcel
2 per party;
- 3
- 4 6. The division of land for grazing or farming activities, provided the land continues to be used
5 for grazing or farming activities;
- 6
- 7 7. The division of land resulting only in the alteration of parcel boundaries where parcels are
8 altered for the purpose of increasing or reducing the size of contiguous parcels and where the
9 number of parcels is not increased;
- 10
- 11 8. The division of land to create burial plots in a cemetery;
- 12
- 13 9. The division of land to create a parcel that is sold or donated as a gift to an immediate family
14 member; however, this exception shall be limited to allow the seller or donor to sell or give
15 no more than one parcel per tract of land per immediate family member;
- 16
- 17 10. The division of land created to provide security for mortgages, liens, or deeds of trust,
18 provided that the division of land is not the result of a seller-financed transaction;
- 19
- 20 11. The sale, lease, or other conveyance of land that creates no parcel smaller than one hundred
21 forty (140) acres;
- 22
- 23 12. The division of land to create a parcel that is donated to any trust or nonprofit corporation
24 granted an exemption from federal income tax, as described in §501(c) (3) of the United
25 States Internal Revenue Code of 1986, as amended; school, college, or other institution with
26 a defined curriculum and a student body and faculty which conducts classes on a regular
27 basis; or to any church or group organized for the purpose of divine worship, religious
28 teaching, or other specifically religious activity; or
- 29
- 30 13. The division of a tract of land into two parcels that conform with applicable zoning
31 ordinances; provided that a second or subsequent division of either of the two parcels within
32 five years of the date of the division of the original tract of land shall be subject to the
33 provisions of the New Mexico Subdivision Act; provided further that a survey, and a deed
34 if a parcel is subsequently conveyed, shall be filed with the County Clerk indicating that the
35 parcel shall be subject to the provisions of the New Mexico Subdivision Act if the parcel is
36 further divided within five years of the date of the division of the original tract of land;
- 37
- 38 14. The purchase or donation of land by a governmental entity for the purpose of construction
39 or use of a public project. ATTACH A CERTIFIED SURVEY OF THE PROJECT
40 SHOWING THE LOCATION AND SIZE OF BOTH TRACTS.
- 41
- 42 EEEE. "Terrain Management Plan" means the control of floods, drainage and erosion, and measures
43 required for adapting proposed development to existing soil characteristics and topography.
- 44
- 45 FFFF. "Time of purchase or lease or other conveyance" means the time of signing any document
46 obligating the person signing the document to purchase land or lease or otherwise acquire a legal
47 interest in land.

2013 JUN 17 PM 2:04

GGGG. "Townhome" or "Townhouse" means an attached, privately owned ~~single-family dwelling~~ unit which is a part of and adjacent to other similarly owned single-family dwelling units that are connected to but separated from one another by a common party wall having no doors, windows, or other provisions for human passage or visibility. A townhouse is a form of Planned Unit Development. For the purpose of determining the number of parcels in a subdivision, each proposed dwelling unit or Townhome shall be counted as one parcel.

HHHH. "Tract" is used interchangeably with the term "lot", particularly in the context of a subdivision, where a "tract" is subdivided into several lots, parcels, sites, units, plots, condominiums, tracts or interests.

III. "Type-one subdivision" means any subdivision containing five hundred (500) or more parcels, any one of which is less than ten (10) acres in size.

JJJJ. "Type-two subdivision" means any subdivision containing not fewer than twenty-five (25) but not more than four hundred ninety-nine (499) parcels, any one of which is less than ten (10) acres in size.

KKKK. "Type-three subdivision" means any subdivision containing not more than twenty-four (24) parcels, any one of which is less than ten (10) acres in size.

LLLL. "Type-four subdivision" means any subdivision containing twenty-five (25) or more parcels each of which is ten (10) acres or more in size.

MMMM. "Type-five subdivision" means any subdivision containing not more than twenty-four (24) parcels, each of which is ten (10) acres or more in size.

TABLE T-2 – TYPES OF SUBDIVISIONS:

Type	Number of Parcels	Size of Smallest Parcel
One	500 or more	Less than 10 acres
Two	25 to 499	Less than 10 acres
Three	2 to 24	Less than 10 acres
Four	25 or more	10 acres or more
Five	2 to 24	10 acres or more

NNNN. "Unit" means a distinct subdivision identified as a component of a master plan.

OOOO. "Vacation of plat" means the vacation of all or a part of a plat which may or may not affect dedicated streets or utility easements.

PPPP. "Water availability assessment" means an evaluation to demonstrate that sufficient quantities

2013 JUL 17 PM 2: 04

1 of potable water are available to supply the maximum annual water requirements of the proposed
 2 subdivision for all indoor and outdoor domestic uses over a 40-year period. Components of the
 3 assessment shall include: (1) a description of the maximum annual water requirements of the
 4 subdivision including water for indoor and outdoor domestic uses, (2) a description of the
 5 availability and sources of water to meet the subdivision's maximum annual water requirements
 6 over 40 years, (3) a description of the means of water conveyance and delivery within the
 7 subdivision, (4) a description of any limitations and restrictions on indoor or outdoor water use in
 8 the subdivision and summary of covenants for said restrictions or conservation measures, (5) a
 9 description of measures, if any, to be used to monitor or restrict water use within the subdivision
 10 and (6) N.M.P.M. State Plane Coordinates, in any appropriate electronic format, for any wells
 11 drilled by subdivider, along with production, depth, and size of pipe data.

12
 13 QQQQ. "Water control structure" means any man-made device for containing or channeling water.

14
 15 RRRR. "Water course" means any river, creek, spring, stream, or any other like body having definite
 16 banks and evidencing the occasional flow of water.

17
 18 SSSS. "Water demand analysis" means an evaluation to determine the maximum annual water
 19 requirements of the proposed subdivision for all indoor and outdoor domestic uses. The annual
 20 maximum water use for both indoor and outdoor purposes for each parcel in a residential
 21 subdivision containing a community water system shall be .25 acre-foot per year, unless a detailed
 22 water demand analysis approved by the Board of County Commissioners justifies the use of a
 23 different figure. See also Article 17. Fire flow requirements must be considered for subdivisions
 24 with community water systems.

25
 26 TTTT. "Water supply system" means a system to provide water for domestic use and for human
 27 consumption.

28
 29
 30 **ARTICLE 3 PRE-APPLICATION PROCESS**

31
 32 **Section 3.1 Pre-Application Procedures**

33
 34 **3.1.1 Conference**

35
 36 For the purpose of expediting applications and reducing subdivision design and development costs, a
 37 subdivider must request an informal pre-application conference in accordance with the requirements
 38 provided herein. The pre-application conference is intended to provide general advice to the subdivider
 39 about the procedures and data requirements for subdivision review and approval in the County.

40
 41 **3.1.2 Summary Procedure Conference**

42
 43 All proposed subdivisions which qualify for approval under the summary procedure provided in Article 7
 44 of this Ordinance must begin with a pre-application conference.

45
 46 **3.1.3 Scheduling**

2013 JUL 17 PM 2:04

1 At the request of the subdivider, the County Planner shall schedule a pre-application conference in order
2 for the subdivider to meet and to become acquainted with the necessary requirements for subdivision review
3 and approval.
4

5
6 **3.1.4 Fee**

7
8 No fee shall be required for a pre-application conference.
9

10 **3.1.5 Statements Non-Binding**

11
12 Neither the subdivider nor the County shall be bound by any statements or determinations made during the
13 pre-application conference.
14

15 **3.1.6 Application/Forms**

16
17 At the request of the subdivider, the County Planner shall provide sufficient guidance and application forms
18 for preliminary plat submittal in order to proceed with the County subdivision process and to fulfill the
19 requirements of the New Mexico Subdivision Act.
20

21 **3.1.7 Notification and Meeting with Surrounding Property Owners.**

22
23 The developer shall be required to provide notice in a local newspaper of general circulation once a week
24 for two consecutive weeks, and post notice in the local post office, and conduct a meeting in Lincoln County
25 regarding the proposed development with the surrounding property owners prior to submitting his
26 preliminary plat to the County of Lincoln for further processing. This requirement shall apply to all
27 subdivisions containing six (6) or more lots.
28

29 **Section 3.2 Pre-Application Data Requirements**

30
31 **3.2.1 Sketch Plat**

32
33 A sketch plat shall be prepared by the subdivider which shows the proposed layout of streets and lots, with
34 estimated dimensions and other relevant site information, including designation of garbage collection sites
35 for developments with six (6) or more parcels and major drainages with basins of 100 acres or greater. The
36 location of the proposed subdivision must be adequately described on a general map of the area.
37

38 **3.2.2 Additional Information**

39
40 In addition to the sketch plat and location map, the subdivider shall provide the following information:
41

- 42 A. name and mailing address of the subdivider and designated agent, if any;
43
44 B. name of owners or owners of land to be subdivided;
45
46 C. a description of surrounding land uses; and
47

2013 JUL 17 PM 2:04

1 D. accessibility of site to roads and utilities.

2
3 **ARTICLE 4 PRELIMINARY PLAT REVIEW PROCESS**

4
5 **Section 4.1 Preliminary Plat Submittal**

6
7 Application for review of a preliminary plat shall be in writing and submitted to the County Planner.
8 Required information for a preliminary plat with attached Development Plan must be complete before the
9 Commission will consider reviewing the preliminary plat. If the preliminary plat is incomplete or does not
10 comply with the submittal requirements provided in these Regulations, the subdivider shall be notified and
11 be given a maximum time period of sixty (60) days to correct the deficiencies and return the preliminary
12 plat for consideration.

13
14 Applications involving development within the Lincoln Historic Preservation District will be forwarded to
15 the Lincoln Historic Preservation Board for review and comment with regard to historic zoning regulations,
16 so long as no deadlines are adversely impacted by the Lincoln Historic Preservation Board's review.

17
18 **Section 4.2 State Agency Review**

19
20 **4.2.1 Plat Transmittal**

21
22 Requests for opinions and review for a preliminary plat with attached Development Plan for all Type-one,
23 Type-two, Type-three subdivisions with six (6) or more parcels, and Type-four subdivisions will be sent
24 by the County Planner within ten (10) days after the preliminary plat is deemed complete, to:

- 25
26 A. the Office of the State Engineer;
- 27
28 B. the New Mexico Environment Department;
- 29
30 C. Soil and Water Conservation District;
- 31
32 D. the New Mexico Highway and Transportation Department;
- 33
34 E. the Department of Cultural Affairs;
- 35
36 F. the New Mexico Attorney General's Office
- 37
38 G. any other public agencies the County considers necessary to determine whether there are
39 adequate facilities to accommodate the proposed subdivision including, but not limited to,
40 fire district, school district, solid waste authority, etc.

41
42 **4.2.2 Requests for Opinions and Review**

43
44 Requests for opinions and review for a preliminary plat for Type-three with five or fewer parcels and Type-
45 five subdivisions may be required in the County Planner's sole discretion.

46
47 **4.2.3 Agency Response**

1 The state and local agencies shall have thirty (30) days from their receipt of the preliminary plat with
2 attached Development Plan to review and return an opinion regarding the preliminary plat. The County
3 Planner shall obtain receipts or other proof showing the date the opinion request was received by each state
4 or local agency. Any adverse agency response should detail all deficiencies.
5

6 The failure of a State agency to provide an opinion when requested by the County Planner does not indicate
7 that the subdivider's provisions concerning the subject of the opinion request were unacceptable or
8 inadequate. The Planning Commission shall review a plat if a State agency fails, within the thirty (30) day
9 period allotted to respond, to provide an opinion. Opinions of the State agencies shall be made a part of the
10 final disclosure statement.
11

12 **4.2.4 Agency Fees**

13
14 Any fees charged by any of the foregoing agencies shall be paid by the Applicant in accordance with the
15 rates set forth in a separate Resolution adopted by the County.
16

17 **4.2.5 Hearing Deadlines**

18
19 Upon return of the opinions of all State agencies listed in section 4.2.1 above, the preliminary plat shall be
20 placed on the agenda of the Planning Commission. The Planning Commission may require additional
21 information be submitted before a final decision or recommendation is made by the Planning Commission.
22

23 **4.2.6 Adverse Opinion**

24
25 If any opinion from a public agency is adverse, the County Planner shall forward a copy of the adverse
26 opinion to the subdivider and request that additional information be provided to the County within thirty
27 (30) days to respond to the concerns of the appropriate agency. The County Planner shall forward such
28 additional information upon receipt to the appropriate agency, which shall have thirty (30) days from their
29 receipt of the additional information in order to revise its opinion. The County Planner shall obtain receipts
30 or other proof showing the date the additional information was received by each State or local agency.
31

32 **4.2.7 Revised Opinion**

33
34 The County shall schedule a public hearing for consideration and action within thirty (30) days after the
35 receipt of a revised opinion from the appropriate agency. If the County does not receive a revised opinion
36 within the specified thirty (30) days from their receipt of the additional information, it shall proceed with
37 the required public hearing.
38

39 **4.2.8 Onsite Inspections**

40
41 Prior to formal action by the Planning Commission, a delegation of Planning members may make an onsite
42 inspection and report on this inspection to the full board.
43

44 In addition, the Lincoln County fire Marshall or his designee, in the district wherein the proposed
45 subdivision is to be located, shall make an on-site inspection of the proposed subdivision to advise
46 the County as to what impact, if any, the new proposed subdivision will have fire district's
47 fire suppression capabilities.

2013 JUL 17 PM 2:04

1 **4.2.9 State and Federal Review of Defensible Space**

2
3 In addition to the foregoing, the County will seek advice from the appropriate State or federal agency
4 regarding the condition of the land to be subdivided as it relates to defensible space issues. Any opinion
5 indicating a danger due to overgrowth of the property to be subdivided shall be required to be set forth in
6 the disclosure statement under section 17, Adverse or Unusual Conditions.
7

8 **4.2.10 Planning Commission Conclusions in Writing**

9
10 Upon completion of the review by the Planning Commission of the preliminary plat, the Planning
11 Commission shall write up its conclusions and submit them to the Lincoln County Board of Commissioners.
12 The Planning Commission shall detail its recommendations and objections.
13

14 **4.2.11. Cursory Review**

15
16 The County may employ a Registered Professional Engineer not employed by the subdivider to review and
17 comment on the adequacy of the proposed road construction plan, design, locations, specifications, and
18 drainage structures. The County's engineer shall provide a review report which shall be a part of the
19 required information of the final plat.
20

21 **Section 4.3 Public Hearing on Preliminary Plats**

22
23 **4.3.1 Scheduling**

24
25 The County shall conduct a public hearing within the time periods specified in this Ordinance. Notice of
26 the public hearing shall be given at least twenty-one (21) days before the hearing date.
27

28 **4.3.2 Notice**

29
30 The notice of public hearing shall be published in both locally published newspapers of general circulation
31 in the County and shall contain the following information:
32

- 33 A. subject of the hearing;
- 34 B. time and place of the hearing;
- 35 C. manner for interested persons to present their views; and
- 36 D. place and manner for interested persons to get copies of any favorable or adverse opinion and
37 of the subdivider's proposal.
38
39
40
41

42 **4.3.3 Notification**

43
44 Copies of the notice of public hearing shall be transmitted to the following:

- 45 A. the subdivider filing the application for preliminary plat approval;
- 46
47

2013 JUL 17 PM 2: 04

- B. those public agencies which initially received copies of the preliminary plat and supporting documentation with a request for opinion;
- C. any interested person who previously requested such notice and provided a stamped, self-addressed envelope or email address for such purpose; and
- D. owners of property contiguous or within a 200-foot radius of the land proposed to be subdivided.

4.3.4 Participation/Record

An owner/developer of the proposed subdivision shall appear at the public hearing scheduled pursuant to Section 4.3.1, unless he/she/they have provided a signed and notarized statement authorizing a designated agent to appear on their behalf. Failure of the owner/developer or designated agent to appear at the public hearing to provide any additionally required information may result in the Board of County Commissioners tabling the application. At the public hearing, the County shall allow all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing, and to examine witnesses testifying at the hearing. A record of the public hearing shall be kept. The opinions of the public agencies shall be made a part of the record.

4.3.5 Action

Within thirty (30) days of the public hearing, the Board of County Commissioners shall approve, approve with conditions, or disapprove the preliminary plat at a public meeting, the date, time, and place of which shall be announced publicly at the conclusion of the public hearing. The County Planner shall inform the subdivider in writing of the decision of the Board of County Commissioners.

Section 4.4 Expiration of Preliminary Plat

4.4.1 Expiration

An approved or conditionally approved preliminary plat shall expire twenty-four (24) months after its approval or conditional approval. Upon request by the subdivider, an additional period of no more than twelve (12) months may be added to the expiration date by the Board of County Commissioners.

4.4.2 Phased development

If the preliminary plat was approved for phased development, the subdivider may file final plats for portions of the development, and the expiration date of the preliminary plat shall be extended for an additional thirty-six (36) months after the date of the filing of each final plat. The number of phased final plats shall be determined by the Board of County Commissioners at the time of the approval or conditional approval of the preliminary plat.

4.4.3 Extension

2013 JUL 17 PM 2:04

1 Before the expiration date of the approved or conditionally approved preliminary plat, the subdivider may
2 submit to the Board of County Commissioners an application for extension of the preliminary plat for a
3 period of time not exceeding thirty-six (36) months.
4

5 4.4.4 Expiration Effect

6
7 The expiration of the approved or conditionally approved preliminary plat shall terminate all proceedings
8 on the subdivision, and no final plat shall be filed without first processing a new preliminary plat.
9

10 Section 4.5 Disclosure Statement

11 A preliminary and final Disclosure Statement are required for all subdivision types. The Disclosure
12 Statement must be in the exact form as set forth on Form 1, "Disclosure Statement, For All Subdivisions
13 Containing No More Than Five Parcels," or Form 2, "Disclosure Statement, For All Subdivisions
14 Containing Six or More Parcels," which are attached hereto.
15
16

17 Section 4.6 Lot Split

18 No lot split or resubdivision of a previously approved subdivision which increases the number of parcels
19 shall be allowed.
20
21

22 ARTICLE 5 PLAT DATA REQUIREMENTS

23 Section 5.1 Requirements the Same for Preliminary and Final Plats

24 The information, format, and date requirements are the same for the preliminary and final plat. The plat
25 requirements are called preliminary when reviewed by the Planning Commission and final when reviewed
26 for approval by the Lincoln County Board of Commissioners. The name of the proposed subdivision shall
27 not be the same in whole or in part as another subdivision presently approved in Lincoln County.
28
29
30

31 Section 5.2 Plat Format

32 The preliminary plat sheets shall be a minimum of eighteen inches (18") by twenty-four inches (24") and
33 maximum of twenty-four inches (24") by thirty-six inches (36"), one-half (1/2) inch wide borders drawn at
34 a scale of one inch (1") to two hundred feet (200') maximum. If the plat is drawn on more than two (2)
35 sheets, they shall be accompanied by an index sheet of the same size showing the entire subdivision.
36 Twenty-five (25) blue line or black line copies and all supporting documents of the Development Plan shall
37 be submitted with the application for consideration of the preliminary plat. Please note that sheet size
38 restrictions for other items in the Development Plan are outlined in their respective Article.
39
40

41 Section 5.3 Plat Content

42 5.3.1 Plat Inclusions

43 The preliminary and final plat shall show and be accompanied by the following information:
44
45
46

2013 JUN 17 PM 2:04

- 1 A. permanent survey markers conforming to engineering standards, or descriptions and "ties"
2 to such survey markers to which all dimensions, angles, bearings and similar data shall be
3 referred;
- 4
- 5 B. tract boundary line, rights-of-way of streets, easements, and other sites, with accurate
6 dimensions, bearings or deflection angles and radii, arcs and central angles of all curves;
- 7
- 8 C. name and width of each street or other right-of-way and center lines of street rights-of-way
9 with dimensions between intersection centerlines or tract boundary lines; location dimensions
10 and purposes or any easements; and providing that all parcels shall have a minimum fifty (50)
11 foot frontage on a roadway;
- 12
- 13 D. street names may be modified or changed by vote of the Commission. Corrections must be
14 reflected on the final plat;
- 15
- 16 E. location, dimensions and purposes for which public sites, if any, are to be dedicated or
17 reserved, and including designation of garbage collection sites for developments with four
18 (4) or more parcels;
- 19
- 20 F. number to identify each block and each site, or lot, block, and unit. Block numbers shall
21 appear within a circle;
- 22
- 23 G. minimum building setback line on all lots and other sites, if such is required by the Planning
24 Commission;
- 25
- 26 H. name of record land owners of adjoining unplatted land;
- 27
- 28 I. the preliminary plat will meet all the requirements of a final disclosure as required by the
29 New Mexico Subdivision Act and this Ordinance (Copy of disclosure statements signed by
30 the subdivider must be attached.);
- 31
- 32 J. the preliminary plat shall carry a reference to the subdivision restrictions and disclosure
33 statement as recorded with the County Clerk;
- 34
- 35 K. reference to recorded subdivision plats of adjoining platted land by record name and date;
- 36
- 37 L. certification of a licensed land surveyor, who shall be licensed in accordance with the laws
38 of the State of New Mexico certifying to the accuracy of survey and plat, and that the same
39 has been prepared by him;
- 40
- 41 M. title, scale, true north arrows, and date;
- 42
- 43 N. the plat shall contain the following statement as part of the approval of the Lincoln County
44 Board of Commissioners. This approval of said plat becomes null and void if not filed in the
45 Office of the County Clerk within one (1) year of the approval date;
- 46

2013 JUL 17 PM 2:04

- O. required dimensions shall be shown to the nearest one-hundredth of a foot and angles to the nearest one-half minute for lot sizes;
- P. all signatures shall be written with black ink;
- Q. dedications of public rights-of-way, easements, and public sites shown on a subdivision plat shall be a part thereof and shall not be dedications separated therefrom;
- R. submitted with the preliminary plat shall be one (1) set of computer printouts showing the mathematical boundaries and acreage of:
 - 1. the subdivision boundary;
 - 2. each lot in the subdivision;
- S. The Development Plan shall be included with all submittals of the plat. The plat is considered a part of the Development Plan and vice versa. Any signatures of the plat document include approval of the Development Plan package. See Article 13 for inclusions of the Development Plan.

5.3.2 Affidavit

The final plat shall contain a statement that the land being subdivided is subdivided in accordance with the final plat. The final plat shall be acknowledged by the owner and subdivider or their authorized agents in the manner required for the acknowledgment of deeds. Every final plat submitted to the County Clerk shall be accompanied by an affidavit of the owner and subdivider, or authorized agents, stating whether or not the proposed subdivision lies within the subdivision regulation jurisdiction of the County. A copy of the final plat shall be provided to every purchaser, lessee, or other person acquiring an interest in the subdivided land before sale, lease, or other conveyance.

5.3.3 Dedication

The final plat shall contain a certificate stating that the Board of County Commissioners has accepted, accepted subject to improvement, or rejected, on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication. On full conformity with County road construction standards, the roads may be accepted for maintenance by the County. Acceptance of offers of dedication on a final plat shall not be effective until the final plat is filed in the Office of the County Clerk or a resolution of acceptance by the Board of County Commissioners is filed in that office.

5.3.4 Conformity

The Board of County Commissioners shall not approve the plat of any subdivision if the subdivider cannot reasonably demonstrate that he can fulfill the proposals contained in his disclosure statement or if the subdivider has not conformed with the New Mexico Subdivision Act and the County's subdivision ordinance.

5.3.5 Land Sales Act

2013 JUL 17 PM 2:04

1
2 Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure
3 Act may submit the approved statement of record in lieu of the disclosure statement required by the New
4 Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not
5 covered in the subdivider's statement of record shall be attached to the statement of record.

6 **5.3.6 Recording**
7

8 The final plat is in full force and effect only after having been recorded in the office of the County Clerk
9 within one (1) year after the date of approval by the Board of County Commissioners.
10

11 **ARTICLE 6 FINAL PLAT REVIEW PROCESS**
12

13 **Section 6.1 Conformity**
14

15 The final plat shall comply with the New Mexico Subdivision Act and this Ordinance.
16

17 **Section 6.2 Final Plat Submittal**
18

19 Application for approval by the County of a final plat shall be in writing and submitted by the subdivider
20 to the County Planner. The County Planner shall determine that all required information is complete and
21 that the Commission has reviewed the preliminary plat and submitted its conclusions. Conditions of a
22 preliminary plat must have been met before the County will consider a final plat. The data and information
23 requirements for a final plat are the same as that for a preliminary plat in addition to any changes arising
24 from the preliminary plat review.
25

26 **Section 6.3 Decision on Final Plat**
27

28 **6.3.1 Action**
29

30 Final plats submitted to the County for approval shall be approved or disapproved by the Board of County
31 Commissioners at a public meeting within thirty (30) days after the date the final plat is deemed complete.
32

33 **6.3.2 Denial**
34

35 The Board of County Commissioners shall not deny a final plat if it has previously approved a preliminary
36 plat for the proposed subdivision and it finds that the final plat is in substantial compliance with the
37 previously approved preliminary plat. Denial of a final plat shall be accompanied by a finding identifying
38 the requirements that have not been met.
39

40 **6.3.3 Development agreement**
41

42 If, at the time of approval of the final plat, any public improvements have not been completed by the
43 subdivider as required by this Ordinance, the Board of County Commissioners shall, as a condition
44 preceding approval of the final plat, require the subdivider to enter into an agreement with the County, on
45 mutually agreeable terms, to thereafter complete the improvements at the subdivider's expense.
46

47 **6.3.4 Failure to act**
48

2013 JUN 17 PM 2:01

1 If the Board of County Commissioners does not act upon a final plat within the required period of time, the
2 subdivider shall give the Board of County Commissioners written notice of its failure to act. If the Board
3 of County Commissioners fails to approve or reject the final plat within thirty (30) days after that notice,
4 the Board of County Commissioners shall, upon demand by the subdivider, issue a certificate that the final
5 plat has been approved.
6

7 **Section 6.4 Advertising Standards**

8 **6.4.1 Brochures, Disclosure Statements, Publications and Advertising**

9 Brochures, disclosure statements, publications and advertising of any form relating to subdivided land shall:
10

- 11 A. not misrepresent or contain false or misleading statements of fact;
- 12 B. not describe deeds, title insurance or other items included in a transaction as "free" and shall
13 not state that any parcel is "free" or given as an "award" or "prize" if any consideration is
14 required for any reason;
- 15 C. not describe parcels available for "closing costs only" or similar terms unless all such costs
16 are accurately and completely itemized or when additional parcels must be purchased at a
17 higher price;
- 18 D. not include an asterisk or other reference symbol as a means of contradicting or substantially
19 changing any statement;
- 20 E. if subdivision illustrations are used, accurately portray the subdivision in its present state, and
21 if illustrations are used portraying points of interest outside the subdivision, state the actual
22 road miles from the subdivision;
- 23 F. not contain artists' conceptions of the subdivision or any facilities within it unless clearly
24 described as such, and shall not contain maps unless accurately drawn to scale;
- 25 G. not contain references to any facilities, points of interest or municipalities located outside the
26 subdivision unless the distances from the subdivision are stated in the advertisement in actual
27 road miles; and
- 28 H. refer to where the subdivider's disclosure statement may be obtained.

29 **6.4.2 Copies of All Brochures, Publications and Advertising Shall Be Filed**

30 Copies of all brochures, publications and advertising relating to subdivided land shall be filed with the
31 Lincoln County Board of Commissioners and with the Attorney General, within fifteen days after initial use
32 by the subdivider.
33
34
35
36
37
38
39
40
41
42
43
44

Section 6.5 Requirements Prior to Sale, Lease or Other Conveyance

2013 JUL 17 PM 2: 04

It is unlawful to sell, lease, or otherwise convey land within a subdivision before the following conditions have been met:

6.5.1 Final Plat Approval

The final plat shall be approved by the Board of County Commissioners and shall be filed with the clerk of the county in which the subdivision is located. If a subdivision lies within more than one county, the final plat shall be approved by the Board of County Commissioners of each county in which the subdivision is located and shall be filed with the County Clerk of each county in which the subdivision is located.

6.5.2 Relevant Documents

The subdivider shall furnish the Board of County Commissioners a sample copy of sales contracts, leases and any other documents which will be used to convey an interest in the subdivided land.

6.5.3 Permanent Mark

All corners of all parcels and blocks within a subdivision shall be permanently marked with ½ inch to 5/8 inch rebar or 3/4 inch iron pipe in the ground and topped with a suitable cap bearing the surveyor's P.L.S. number. A reference stake shall be placed beside each rebar and cap.

6.5.4 Maintenance Bonds and Performance Bonds

A certificate by the Lincoln County Board of Commissioners or their designated representatives certifying that the subdivider has complied with one of the following:

- A. All improvements have been installed in accordance with the requirements of this Ordinance.
- B. A Performance Bond or certificate of deposit must be filed with the County Clerk in sufficient amount to assure completion of developer-provided improvements. Developer-provided improvements include, but are not limited to, all public roads and private roads in subdivisions. The Bond shall be based on engineering cost estimates. The Performance Bond will not be required after acceptance of a Maintenance Bond.
- C. The Maintenance Bond, in the amount of 15% of the Performance Bond, must be filed and continued for the two-year test period of the developer-provided improvements after preliminary acceptance and until final acceptance by the County Commission for all public roads.

6.5.5 Requirement for Construction to Commence

Construction shall commence within one year of final plat approval. If construction is not commenced within one year of final plat approval, the subdivision will be deemed abandoned unless an extension is requested and approved prior to the expiration of one year. There shall be no limit to the number of extensions which may be requested. If construction is not commenced within one year, or an extension granted, review and approval will again be required of any subdivision prior to any development.

2013 JUL 17 PM 2:05

Section 6.6 Recording Parcels**6.6.1 Authority**

NMSA 1978, §47-6-9(A)(17), requires counties to enact regulations for recording all conveyances of parcels with the county clerk. As defined in the Act, the term "parcel" means "land capable of being described by location and boundaries and not dedicated for public or common use."

6.6.2 Purpose

Recording conveyances of parcels provides anyone interested in acquiring land, and lenders, with important information about the condition of title. Recording conveyances of all parcels also provides public officials with information needed to detect illegal subdividing. The purpose of this information is to protect buyers and lenders and to help enforce the Act and this Ordinance by making all conveyances of parcels matters of public record.

6.6.3 Requirement

Any person who sells, leases for an initial term plus option terms in excess of five (5) years, or otherwise conveys any interest in any parcel located in whole or in part in the County shall record the deed, lease, real estate contract, notice of lease, notice of real estate contract, or other document of conveyance with the County Clerk no later than five (5) days after the closing or thirty (30) days after the date on which the document is signed, whichever comes first.

6.6.4 Form and Certification

Any deed, lease for an initial term plus option terms in excess of five (5) years, real estate contract, notice of lease, notice of real estate contract, or other document used to convey any interest in any parcel located in whole or in part in the County shall be in a form acceptable for recording and duly acknowledged and certified as required by the provisions of NMSA 1978, §14-8-4.

6.6.5 Plat Attachment

The deed, lease, real estate contract, notice of lease, notice of real estate contract, or other document of conveyance shall have a survey plat and a legal description of the parcel attached to it. The survey plat shall show the surveyor's seal, the boundaries of the parcel, the means of access to the parcel, and any easements to which the parcel is subject.

ARTICLE 7 SUMMARY REVIEW PROCESS**Section 7.1 Summary Review Procedure****7.1.1 Qualifications**

The following Types of subdivisions shall be submitted to the County for approval under summary review procedure:

2013 JUL 17 PM 2: 05

- 1 A. Type-three subdivisions containing five (5) or fewer parcels of land, unless the land within
- 2 a subdivision has been previously identified in the County Comprehensive Plan as an area
- 3 subject to unique circumstances or conditions that require additional review; and
- 4
- 5 B. All Type-five subdivisions.
- 6

7 **7.1.2 Conference Required**

8

9 A pre-application conference is required before application for summary review and approval. The

10 pre-application process is described in Article 3 of this Ordinance.

11

12 **7.1.3 Application/Fees**

13

14 A subdivider shall prepare a summary review plat and supporting documentation in accordance with the

15 requirements provided in this Ordinance. The summary review plat shall be considered as a final plat

16 suitable for filing with the County Clerk. Summary review plat submittal is initiated by completing an

17 application on the prescribed form obtainable from the County Planner, and upon payment of the required

18 administrative fees. The summary review plat shall carry a reference to the subdivision restrictions and

19 disclosure statement as recorded with the County Clerk

20

21 **7.1.4 Plat Deemed Complete**

22

23 On receipt of the application, fees, summary review plat, and supporting documentation, the County Planner

24 shall review all materials in order to determine if the preliminary plat is ready to begin the review process.

25 If there are no deficiencies, the summary review plat will be deemed complete for review by written notice

26 to the subdivider within thirty (30) days after the date of application. If the summary review plat is

27 incomplete or does not comply with the submittal requirements, the subdivider shall be notified and given

28 a maximum time period of thirty (30) days to correct the deficiencies and return the summary review plat

29 for consideration.

30

31 **7.1.5 Public Meeting**

32

33 Summary review plats submitted to the County for approval shall be approved or disapproved by the

34 Lincoln County Commission at a public meeting within thirty (30) days of the date the summary review plat

35 is deemed complete.

36

37 **7.1.6 Improvement Agreement**

38

39 If, at the time of approval of the summary review plat, any public improvements have not been completed

40 by the subdivider as required by this Ordinance, the Board of County Commissioners shall, as a condition

41 preceding approval of the summary review plat, require the subdivider to enter into an agreement with the

42 County, on mutually agreeable terms, to thereafter complete the improvements at the subdivider's expense.

43

44 **7.1.7 Failure to Act**

45

46 If the County Planner does not act upon a summary review plat within the required period of time, the

47 subdivider shall give the Board of County Commissioners written notice of the County's failure to act. If

48 the Board of County Commissioners fails to approve or reject the summary review plat within thirty (30)

2013 JUL 17 PM 2:05

1 days after such notice, the Board of County Commissioners shall, upon demand by the subdivider, issue a
2 certificate that the summary review plat has been approved.
3

4 **Section 7.2 Summary Review Data Requirements**

5
6

7 **7.2.1 Filing Specifications**

8

9 Three (3) original drawings of the summary review plat, along with all supporting documentation, shall be
10 submitted in waterproof ink on mylar or acetate or other durable material suitable for reproducing copies
11 and shall be a minimum of eighteen inches (18") by twenty-four inches (24") and maximum of twenty-four
12 inches (24") by thirty-six inches (36") , one-half (½) inch wide borders drawn at a scale of one inch (1")
13 to two hundred feet (200') maximum. The subdivider shall also submit two paper copies of the summary
14 review plat map and accompanying information. If the plat is drawn on more than two (2) sheets, they shall
15 be accompanied by an index sheet of the same size showing the entire subdivision.
16

17 **7.2.2 Map Specifications**

18

19 The summary review plat map shall include the following information:
20

- 21 A. title, scale, north arrow, and date;
- 22
- 23 B. name and mailing address of subdivider and designated agent, if any;
- 24
- 25 C. names of owners of land to be subdivided and of contiguous property;
- 26
- 27 D. subdivision boundary lines, easement and right-of-way lines, and property lines of all lots,
28 with accurate dimensions, and ties to monuments;
- 29
- 30 E. acreage measurements and identification numbers for each lot;
- 31
- 32 F. location, dimensions, and purpose of all easements;
- 33
- 34 G. delineation of any 100-year flood plain as designated by the Federal Emergency Management
35 Agency or statement, based upon the prevailing Federal Emergency Management Agency
36 flood maps, that the property does not lie within a flood zone;
- 37
- 38 H. the certification of a surveyor registered in New Mexico attesting to the accuracy of the plat,
39 and the date of the survey; and
- 40
- 41 I. legal description indicating the range, township, and section within which the subdivision is
42 located.
43

44 **7.2.3 Affidavit**

45

46 The summary review plat shall contain a statement that the land being subdivided will be subdivided in
47 accordance with the summary review plat. The summary review plat shall be acknowledged by the owner
48 and subdivider, or authorized agents, in the manner required for the acknowledgment of deeds. Every

2013 JUN 17 PM 2:05

1 summary review plat submitted to the County Clerk as a final plat shall be accompanied by an affidavit of
2 the owner and subdivider, or authorized agents, stating whether the proposed subdivision lies within the
3 subdivision jurisdiction of the County. A copy of the summary review plat shall be provided to every
4 purchaser, lessee, or other person acquiring an interest in the subdivided land prior to sale, lease or other
5 conveyance.
6

7 7.2.4 Dedication

8
9 The summary review plat shall contain a certificate stating that the Board of County Commissioners has
10 accepted, accepted subject to improvement, or rejected, on behalf of the public, any land offered for
11 dedication for public use in conformity with the terms of the offer of dedication. Upon full conformity with
12 County road construction standards, the roads may be accepted for maintenance by the County. Acceptance
13 of offers of dedication on a summary review plat shall not be effective until the summary review plat is filed
14 in the office of the County Clerk or a resolution of acceptance by the Board of County Commissioners is
15 filed in that office.
16

17 7.2.5 Disclosure Statement

18
19 For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format
20 provided in the Appendix of this Ordinance. It is unlawful to sell, lease or otherwise convey land in a
21 subdivision until the required disclosure statement has been filed with the County Clerk, the Board of
22 County Commissioners, and the Attorney General's Office, and until the prospective purchaser, lessee or
23 other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement.
24

25 7.2.6 Land Sales Act

26
27 Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure
28 Act may submit the approved statement of record instead of the disclosure statement required by the New
29 Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not
30 covered in the subdivider's statement of record shall be attached to the statement of record.
31

32 7.2.7 Advertising standards

33
34 The advertising standards covering the sale, lease, or other conveyance of subdivided land provided in
35 Article Six, Section 4, of this Ordinance shall be applicable to summary review plats.
36

37 7.2.8 Proof of No Delinquent Taxes

38
39 The subdivider shall provide a certificate from the Lincoln County Treasurer which states that all property
40 tax obligations are current on the land parcels to be divided or recombined, and that the property is assessed
41 on the rolls of the Lincoln County Assessor in the name of the current owner, pursuant to Lincoln County
42 Ordinance 2002-08, as may be amended.
43
44

45 ARTICLE 8 SPECIAL PROCEDURES

46 Section 8.1 Succeeding Subdivisions

47 LINCOLN COUNTY-NM
48 HONORABLE CLERK
201304825
Book2013 Page 4825
36 of 115
07/17/2013 09:00:00 AM

2013 JUL 17 PM 2:05

1 **8.1.1 Standards**

2
3 Any proposed subdivision may be combined with a previous subdivision and upgraded for classification
4 purposes by the Board of County Commissioners if the proposed subdivision includes:

- 5
6 A. a part of a previous subdivision that has been created in the preceding seven (7) year period;
7 or
8
9 B. any land retained by a subdivider after creating a previous subdivision if the previous
10 subdivision was created in the preceding seven (7) year period.
11
12 C. No lot split or replat of a previously approved subdivision which increases the number of
13 parcels shall be allowed within seven (7) years of the filing of the previously approved
14 subdivision.
15

16 **Section 8.2 Replat**

17
18 **8.2.1 Definition**

19
20 Replat means a change in a map of an approved or recorded subdivision plat, if such change affects any
21 street layout on such map or area reserved thereon for public use, or any lot line, or if it affects any map or
22 plan legally recorded prior to the adoption of any regulation controlling subdivisions.
23

24 **8.2.2 Procedure**

25
26 All or a portion of any final plat filed in the Office of the County Clerk may be resubdivided by the same
27 procedures prescribed in this Ordinance for the subdivision of land.
28

29 **Section 8.3 Vacation of Plats**

30
31 **8.3.1 Cause**

32
33 Any plat filed in the Office of the County Clerk may be vacated or a portion of the plat vacated if:

- 34
35 A. the owners of the land proposed to be vacated sign an acknowledged statement, declaring the
36 plat or a portion of the plat to be vacated; and
37
38 B. the statement is approved by the Board of County Commissioners of the county within whose
39 platting authority the vacated portion of the subdivision is located.
40

41 **8.3.2 Request for vacation**

42
43 The vacation of all or a portion of a final plat shall be initiated by a submittal of a request for vacation to
44 the County Planner, along with the names of all owners of record of property within the subdivided land
45 to be vacated and the names of all owners of record of property contiguous to the subdivided land to be
46 vacated. The request for vacation shall be considered filed upon payment of the required fee.
47

48 **8.3.3 Review Period**

2013 JUL 17 PM 2:05

1 Within sixty (60) days after the date of receipt of the request for vacation, the Board of County
2 Commissioners shall approve or deny the vacation, subject to the following:

- 3
- 4 A. action shall be taken at a public meeting;
 - 5
 - 6 B. at least fifteen (15) days before the proposed meeting, all owners of record of property within
7 the subdivided land to be vacated and all owners of record of property contiguous to the
8 subdivided land to be vacated shall have been notified by mail of the proposed vacation and
9 the date, time and place of the public meeting at which the vacation will be considered by the
10 Board of County Commissioners;
 - 11
 - 12 C. relevant utilities and other agencies have been notified.
 - 13

14 **8.3.4 Action**

15
16 In approving the vacation of all or a part of a final plat, the Board of County Commissioners shall determine
17 whether or not the vacation will adversely affect the interests of persons on contiguous land or persons
18 within the subdivision being vacated. In approving the vacation of all or a portion of the plat, the Board of
19 County Commissioners may require that streets dedicated to the County in the original plat continue to be
20 dedicated to the County. The owners of parcels on the vacated portion of the final plat may enclose in equal
21 proportions, the adjoining streets and alleys that are authorized to be abandoned.
22

23 **8.3.5 Filing**

24
25 The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the office
26 of the County Clerk wherein the final plat is filed. The County Clerk shall mark the final plat with the
27 words "Vacated" or "Partially Vacated" and refer on the final plat to the volume and page on which the
28 statement of vacation is recorded.
29

30 **8.3.6 Utility Rights**

31
32 The rights of any utility existing prior to the vacation, total or partial, of any final plat are not affected by
33 the vacation of a final plat.
34

35 **Section 8.4 Variances**

36
37 **8.4.1 Cause**

38
39 Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the
40 requirements of these Regulations would result in a substantial or unreasonable hardship to the subdivider
41 because of exceptional topographic, soil or other surface or subsurface conditions, or that strict compliance
42 with these Regulations would result in inhibiting the achievement of the objectives of these Regulations,
43 the Planning Commission may recommend modification or waiver of their requirements. No variance shall
44 be granted simply because the developer disagrees with or does not wish to meet the goals and objectives
45 of these Regulations. In no case shall a variance be granted which will cause the County to absorb costs over
46 and above those typically associated with subdivision approval. Also, no variance shall be granted contrary
47 to the mandatory requirements of State law. Requests for variances must be submitted in writing with the
48 preliminary plat. Variance requests shall be reviewed by the Planning Commission prior to approval or

1 denial of a preliminary plat. Variance requests shall also be examined by the reviewing agencies with
2 expertise relating to the subject of the requested variance. Variances may be granted for time periods and
3 under conditions consistent with reasons for granting them.
4
5

6 **8.4.2. Required Findings**
7

8 The Planning Commission shall make the following findings of fact before it may recommend a variance
9 and these same findings must be made by the Board of County Commissioners before it may act on an
10 approval/appeal regarding a Variance. Granting of the Variance:
11

- 12 A. Shall not constitute a grant of special privilege inconsistent with the limitations on other
13 properties in the area of notice.
- 14
- 15 B. Shall not be detrimental to the public health, safety, or welfare, or be materially injurious to
16 properties or improvements in the area of notice.
- 17
- 18 C. Is justified because there is a physical hardship for the applicant resulting from size, shape
19 or existing structures thereon, or from topographic or physical conditions on the site or in the
20 area of noticed.
- 21
- 22 D. Upholds the spirit and intent of these Regulations, public safety and welfare secured, and
23 substantial justice done.
24

25 **8.4.3. Warrants.**
26

27 The Variance shall be warranted for one or more of the following reasons:
28

- 29 A. Strict or literal interpretation and enforcement of the specified performance standard or
30 regulation would result in unnecessary physical hardship on the property owners inconsistent
31 with the purposes of these Regulations; or
32
- 33 B. Exceptional or extraordinary circumstances or conditions exist which are applicable to the
34 site of the variance that do not apply generally to other properties in the vicinity.
35

36 **8.4.4. Procedures.**
37

38 The following procedures and requirements shall apply to all requests for variances under these Regulations:
39

- 40 A. Requests for variances shall be submitted in writing prior to or at the time of request for
41 preliminary plat approval on a form provided by the Planning Department for that purpose,
42 and upon payment of the required administrative fee.
43
- 44 B. Variance requests shall be reviewed by the County Planning Commission in public hearings
45 prior to or concurrent with public hearings that are held for recommendations for approval
46 or denial of the preliminary plat.
47
- 48 C. Notice of the request for variance shall be given in the same manner as notice is provided for
49 any public hearing required in these Regulations and shall comply with the requirements of
50 the Open Meetings Act of the State of New Mexico.

2013 JUL 17 PM 2:05

- D. Variance requests shall be submitted to the state or other reviewing agency having expertise with respect to the subject matter for which the variance is sought, and shall be governed by the same time limits.
- E. The County Planning Department shall make written findings of fact regarding each of the requirements of these Regulations and shall produce those findings of fact on each request for variance.
- F. Notice of the decision and order shall be prepared, signed and filed with the Lincoln County Clerk within five (5) working days after the final approval is obtained from the Planning Commission and Board of County Commissioners at the public meeting at which the variance is considered.

8.4.5. Conditions on Variances.

In granting Variances, the Planning Commission may impose conditions regarding further expansions, maximum height limits, time limitations, type of construction, and buffering that will ensure that the use of the property to which the Variance applies will be compatible as practicable with and not adversely affect properties within 200 feet of the proposed variance site.

8.4.6. Notification of Action.

A letter of notification shall be sent by the Planning Director to the applicant within five (5) working days following consideration of a Variance by the Board of County Commissioners. Said letter shall state the nature and conditions of approval of Variances, or alternately, shall state the reasons for denial of Variances. Said letter shall also explain the next action required or available to the applicant in pursuing the Variance.

Section 8.5 Exemptions

8.5.1. Approval Required.

It is unlawful for any person to divide a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease or other conveyance or for building development, whether immediate or future, unless such person either obtains approval for a subdivision as provided in this Ordinance or files and obtains approval for a Claim of Exemption as provided in this Article.

8.5.2 Verification of Exemption

- A. Any person claiming entitlement to an exemption under the provisions of this Ordinance shall file a written claim of exemption on the prescribed form available from the County Planner before making the land division for which the claim of exemption is made.
- B. The Lincoln County Planner shall review the claim of exemption and supporting documents and shall provide written notice of whether the exemption has been approved or denied to the person claiming the exemption within thirty (30) days after receipt of the completed claim of exemption; provided, however, that the thirty (30) day period shall not begin to run until the person claiming the exemption has delivered a completed Claim of Exemption and all supporting documents to the County Planner.

LINCOLN COUNTY-NM

HONORABLE BUREAU, CLERK

201304825

Book 2013 Page 4825

40 of 115

07/17/2013 09:00:00 AM

2013 JUL 17 PM 2:05

- C. If the Claim of Exemption is approved, or if the County Planner fails to mail written notice to the claimant within thirty (30) days after receipt of the completed claim of exemption and all supporting documents, the person claiming the exemption may divide the land in the manner proposed in the Claim of Exemption without complying with the provisions of this Ordinance.
- D. If the Claim of Exemption is denied, the person claiming the exemption may appeal the denial as provided in Article 10 of this Ordinance or may submit an application for a subdivision as provided in this Ordinance.
- E. If the Claim of Exemption is approved, the Claim of Exemption shall appear on the face of the plat and the plat shall be signed and notarized by the owner, approved by the County Planner, and the plat shall be filed of record with the County Clerk. In addition, if the Claim of Exemption is approved, the Claim of Exemption as approved shall be included on any and all documents of conveyance.
- F. Any applicant for an Exemption shall attach certified surveys showing all parcels and parcel boundaries before and after the proposed alteration.

Section 8.6 Protection of Cultural Properties, Archaeological Sites, and Unmarked Burials

8.6.1 Unmarked Human Burials

- A. According to state policy, any human burial in the state in any unmarked burial ground is accorded the protection of law and shall receive appropriate and respectful treatment and disposition.
- B. All subdividers shall comply with the requirements of NMSA 1978, §18-6-11.2, which prohibits the knowing, willful or intentional excavation, removal, disturbance or destruction of any human burial, buried, entombed or sepulchered in any unmarked burial ground except by authority of a permit issued by the state medical investigator or by the state cultural properties review committee with the concurrence of the state archaeologist and state historic preservation officer.

8.6.2 Registered Cultural Properties

Any person desiring to subdivide land in the County shall comply with the Cultural Properties Act, NMSA 1978, §§ 18-6-1 through 18-6-17.

ARTICLE 9 ADMINISTRATIVE FEES

To defray the cost to the County of determining compliance with the New Mexico Subdivision Act and the Lincoln County Subdivision Regulations while passing upon subdivision plats, the County shall charge certain non-refundable fees which shall be set forth in a duly approved Resolution adopted by the County.

ARTICLE 10 APPEALS

Section 10.1 Who May Appeal

LINCOLN COUNTY-NM
HEENA B BURKS, CLERK
201304825
Book2013 Page 4825
41 of 115
07/17/2013 09:00:00 AM

2013 JUL 17 PM 2: 05

1 **10.1.1 Lincoln County Planning Commission**

2
3 Any person who is adversely affected by a decision of the Lincoln County Planning Commission in
4 approving or disapproving a subdivision plat may appeal to the Board of County Commissioners within
5 fifteen (15) days after the date of the action of the County Planning Commission. The Board of County
6 Commissioners shall hear the appeal and render a decision within thirty (30) days after receiving the notice
7 of appeal.
8

9 **10.1.2 Board of County Commissioners**

10
11 Any person who is adversely affected by a decision of the Board of County Commissioners in approving
12 or disapproving a subdivision plat may appeal to the District Court of the county in which the subdivision
13 is located within thirty (30) days after the date of the action of the Board.
14

15 **Section 10.2 Appeal Process**

16
17 **10.2.1 Nature of Review**

18
19 The appeal shall consist of a whole record review, and the reviewing authority, whether it be the Board of
20 County Commissioners or the District Court, shall set aside the action of the lower tribunal only if it is
21 found to be:

- 22
23 A. arbitrary, capricious or an abuse of discretion; or
24
25 B. not supported by substantial evidence; or
26
27 C. otherwise not in accordance with law.
28

29 **10.2.2 Standing**

30
31 Any party to the action in District Court shall have full appellate rights in accordance with the laws of the
32 State of New Mexico and the rules of appellate procedure for the State of New Mexico.
33

34 **10.2.3 Notice of Appeal**

35
36 The appeal shall be perfected by filing a written notice of appeal which sets forth the specific portion or
37 portions of the decision being appealed. A copy of the decision or order being appealed shall be attached
38 to the notice of appeal. The appeal shall be perfected upon filing of the notice required by this Ordinance
39 and payment of the required administrative fee.
40

41 **ARTICLE 11 ENFORCEMENTS, PENALTIES AND REMEDIES**

42
43 **Section 11.1 Investigation of Alleged Violations**

44
45 All written, signed complaints alleging one or more violations of the provisions of the New Mexico
46 Subdivision Act or this Ordinance shall be referred to the County Commissioners for investigation. The
47 County Commissioners shall investigate the complaint and take such action as is warranted. The County
48 Commissioners shall inform the complainant in writing of what actions have been taken or will be taken
49 in response to the complaint.
50

2013 JUL 17 PM 2:05

Section 11.2 Penalties and Remedies

Violations of the provisions of this Ordinance shall be subject to the following penalties, remedies and enforcement procedures:

11.2.1 Utility Connections

Any water, sewer, electric, or gas utility that connects service to individual parcels within a subdivision before a final plat for the subdivision has been approved by the Board of County Commissioners or before the landowner holds a valid building permit, may be fined a civil penalty of up to five hundred dollars (\$500) by the Board of County Commissioners. The Board of County Commissioners may also require that any utility connected in violation of this section and of NMSA 1978, §47-6-27.2, be disconnected.

11.2.2 Suspension of Right of Sale

The Board of County Commissioners may suspend or revoke approval of a plat as to unsold, unleased or otherwise not conveyed portions of a subdivider's plat if the subdivider does not meet the schedule of compliance approved by the Board of County Commissioners.

11.2.3 Injunctive Relief, Mandamus

The Board of County Commissioners, the District Attorney, or the Attorney General may apply to the District Court for any one or more of the following remedies in connection with violations of the New Mexico Subdivision Act and this Ordinance:

- A. injunctive relief to prohibit a subdivider from selling, leasing, or otherwise conveying any interest in subdivided land until the subdivider complies with the terms of the New Mexico Subdivision Act and this Ordinance;
- B. injunctive relief to compel compliance by any person with the provisions of the New Mexico Subdivision Act and this Ordinance;
- C. rescission and restitution for persons who have purchased, leased, or otherwise acquired an interest in subdivided land that was divided, sold, leased or otherwise conveyed in material violation of the New Mexico Subdivision Act or this Ordinance; or
- D. a civil penalty of up to five thousand dollars (\$5,000) for each parcel created in knowing, intentional, or willful violation of the New Mexico Subdivision Act or this Ordinance.

11.2.4 Bond Not Required

The Board of County Commissioners, the District Attorney and the Attorney General shall not be required to post bond when seeking a temporary or permanent injunction or mandamus according to the provisions of the New Mexico Subdivision Act.

11.2.5 Criminal Penalties

- A. NMSA 1978, § 47-6-27, provides that:

LINCOLN COUNTY-NM
HILDA B. BURROWS, CLERK
201304825
Book2013 Page 4825
43 of 115
07/17/2013 09:00:00 AM

2013 JUL 17 PM 2:05

1) any person who knowingly, intentionally, or willfully commits a material violation of the New Mexico Subdivision Act is guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars (\$10,000) per violation, or by imprisonment for not more than one year, or both; and

2) any person who is convicted of a second or subsequent knowing, intentional, or willful violation of the New Mexico Subdivision Act is guilty of a fourth degree felony, punishable by a fine of not more than twenty-five thousand dollars (\$25,000) per violation or by imprisonment for not more than eighteen (18) months, or both.

B. Any violation of the provisions of this Ordinance is punishable by a fine not to exceed three hundred dollars (\$300) or imprisonment for not more than ninety (90) days, or both, in accordance with NMSA 1978, §4-37-3.

ARTICLE 12 ROAD DESIGN STANDARDS

Section 12.1 General

Topographical conditions: The arrangement, character, extent, width, grade and location of all streets shall conform to topographical conditions to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets. Note that most guidelines herein are minimum requirements, and the County Designee may recommend more detail or more stringent requirements in select areas and site conditions.

Section 12.2 Road Construction Plans

Accompanying the preliminary plats and in format similar to it, will be a 24" x 36" drawing. Plan and profile displays of the road shall be shown at a minimum horizontal scale of 1"=100' and a vertical scale of the profile to sufficiently display the proposed relief. It shall give the following information:

- A. name and width of each street and associated rights-of-way;
- B. centerlines of street rights-of-way with dimensions between intersections centerlines or tract boundary lines;
- C. locations, dimensions, and purposes of any easements;
- D. longitudinal (grade slope) and transverse slopes (crown for drainage);
- E. typical sections including width, thickness, material composition, and compaction requirements of all drainage structures;
- F. material specifics, invert elevations, sizes, slopes, and drainage channel requirements of all drainage structures;
- G. identification, location, and miscellaneous particulars of all utilities to be located within the rights-of-way;
- H. obstruction clearing widths;

2013 JUL 17 PM 2: 05

- 1 I. existing and proposed contours to a minimum of 10' interval;
- 2
- 3 J. adequate curve data to allow construction as intended; and
- 4
- 5 K. the necessary data to tie proposed road to property corners.
- 6
- 7 L. A Traffic Impact Analysis shall be required for all Type One and Two Subdivisions, and
- 8 all Type Four and Five Subdivisions containing twenty-five (25) or more lots, as to any
- 9 roads tying to the development, including roads not tied to a state highway, in accordance
- 10 with NMDOT standards.
- 11

12 Section 12.3 Street Layout

13

14 The proposed layout shall be made according to sound land planning practice for the type of development

15 proposed, and shall be coordinated with the street system of the surrounding areas. All streets must provide

16 for the continuation of appropriate projections of principal streets in surrounding areas and provide

17 reasonable means of ingress and egress for surrounding acreage tracts. All subdivisions having six (6) or

18 more lots must have a minimum of two entrances/exits built to County standards.

19

20 Section 12.4 Half Streets Prohibited

21

22 The dedication of half streets at the perimeter of a new subdivision is prohibited. If circumstances render

23 the dedication of full street rights-of-way impracticable, then adequate provision must be assured by the

24 subdivider, that where there exists a half street in an adjoining subdivision, the remaining half shall be

25 provided by the proposed developer.

26

27 Where land is subdivided into extra large tracts where the potential for future subdivision exists, such tract

28 shall be arranged so as to allow for the provision of future streets and a logical further re-subdivision

29 pattern.

30

31 Section 12.5 Adjacent Highway

32

33 Where a proposed subdivision contains lots abutting or adjacent to a major highway, it may be planned so

34 as to avoid having lots fronting on a highway. The subdivision shall be laid out to have a minimum number

35 of intersections with highways. The "sight distance" at any intersection must provide for adequate

36 "stopping distance." Where the subdivision contains, or is adjacent to a state or federal highway, the

37 subdivider must satisfy the New Mexico Department of Transportation as to the permit required to connect.

38

39 Section 12.6 Private Roads

40

41 Private roads in all subdivisions are required to be built to County standards. All private roads will be

42 allowed in subdivisions if built to County standards and only if an accepted means of guaranteed

43 maintenance by lot or tract owners is presented to and accepted by the County Commission. Designation

44 of private roads will be noted on the Disclosure Statement and deeds. In addition, the driving surface on

45 private roads shall not be less than twenty-feet (20') in width and shall otherwise be built to County

46 standards. Performance Bonds will be required on all subdivisions containing private roads.

47

2013 JUL 17 PM 2:05

Section 12.7 Road Design

All proposed streets shall be designed by a New Mexico Registered Professional Engineer. The design of the structural section of the road shall follow methodologies recommended by AASHTO to other such commonly recognized authorities in the field. Factors for consideration shall include but not be limited to soil data, use reflective of ultimate development and projected car and truck activity, maximum and minimum grades, climatic conditions, drainage, environmental concerns, and the incorporation of materials that will enhance the logistics and economics associated with long term maintenance operations.

Any section proposed shall be based upon calculations proving adequacy. Referencing minimal criteria without appropriate engineering interpretations shall not be acceptable. When the Soil Conservation Service Survey exists, it will be appropriate to use it.

The gradient for local streets in proposed residential areas shall be less than ten (10%) percent. Grades approaching street intersections shall not exceed five percent (5%) for a distance of not less than one hundred feet (100') each way from the intersection.

All parcels shall be required to have a minimum 50-foot frontage on a roadway.

Section 12.8 Road Construction Guidelines

Lincoln County guidelines for construction of private and public roads within approved subdivisions:

- A. Road construction shall conform to County standards for width, material, and construction guidelines.
- B. The developer shall notify the County Road Manager, in writing, when construction is started.
- C. The developer shall monthly contact the County Road Manager and schedule an inspection of the road construction.
- D. The developer shall provide the County Road Manager with a copy of testing lab certifications that materials (base course & paving) meet County standards.
- E. The developer shall provide certification from the manufacturer that other materials meet County standards (culverts, erosion, fencing, concrete, etc.).
- F. The developer shall provide the County Road Manager with all testing lab certifications as to compaction of the road.
- G. The developer shall provide the County Planner with a copy of all state and federal permits required for the road construction.
- H. All roads required to be constructed pursuant to this Ordinance must be completed within twelve (12) months of final approval of the subdivision. The Board of County Commissioners may suspend or revoke approval of a plat as to the unsold, unleased or otherwise un conveyed portions of a subdivider's plat if a subdivider does not complete construction of roads within twelve (12) months of final approval of the subdivision. Extensions may

1 be applied for and may be granted by the County in the County's sole discretion, and
2 which will not be unreasonably withheld.

- 3
- 4 I. An as-built set of road plans with shots on road every 100 feet on centerline including
5 actual inverts of all installed culverts and drainage structures shall be submitted to the
6 County Planner upon completion of the road and prior to the County's final inspection of
7 the road.
- 8
- 9 J. The developer, upon completion of the project, shall schedule a final inspection with the
10 County Road Manager, the County Manager, and the Chairman or his designee. A copy
11 of the inspection shall be made a part of the next Commission meeting agenda. At that
12 time, the County Planning Dept. or his designee shall also conduct a final inspection of all
13 other developer improvements within the project.
- 14

15 **Section 12.9 Curve Radii and Super Elevation**

16

17 Vertical and horizontal curves and the super elevation of the horizontal curves shall conform to the
18 requirements as set forth in the American Association of State Highway official publication "A Policy on
19 Geometric Design of Highways and Streets."

20

21 **Section 12.10 Intersections**

22

23 Streets shall be laid out to intersect each other as nearly as possible at right angles, under no condition shall
24 the intersection angle be less than seventy degrees (70°).

25

26 No two (2) opposing street intersections shall be less than one hundred twenty-five feet (125') between
27 centerlines.

28

29 **Section 12.11 Cul-de-sacs**

30

31 Cul-de-sacs (dead end streets) shall not have more than a total of twenty-four (24) single family lots
32 fronting on the right-of-way. The total length of the cul-de-sac may vary on the width of the lots. At the
33 closed end of the cul-de-sac, there shall be provided a turnaround having a radius of at least fifty feet (50')
34 to the outside edge of the driving lane, plus a minimum of ten feet (10') or a width necessary to provide
35 drainage and room for utilities. Where the cul-de-sac length exceeds two thousand feet (2,000'), there shall
36 be provided an additional in-line turnaround of the same description as that for the closed-end turnaround.
37 The in-line turnaround shall be located as near to the mid-point of the cul-de-sac length as practical. Where
38 the width of the twenty-four lots requires even longer cul-de-sac length, there shall be installed additional
39 in-line turnarounds at intervals along the cul-de-sac length which shall not exceed one thousand five
40 hundred feet (1,500').

41

42 If any multi-family or commercial lots front on the cul-de-sac, the cul-de-sac shall be restricted to a
43 maximum of one thousand five hundred feet (1,500').

44

45 **Section 12.12 Road Dedication**

46

47 All roads shown on the final plat and intended for public use shall be dedicated to the County for such use.
48 The subdivider shall construct the roads so intended according to the design standards, specifications, and
49 relative stipulations of this Ordinance and the approved Road Construction Plan. Any changes to the

2013 JUN 17 PM 2:05

1 approved Road Construction Plan shall require County concurrence. At least seven (7) days prior to any
2 road construction activities, the subdivider shall submit to the County a written schedule for the
3 accomplishment of the proposed work. The subdivider shall provide at least two (2) days notice of any
4 changes in the schedule. Dedication of any road rights-of-way or easement in no way relieves the
5 subdivider of any duties or obligations to construct proposed dedicated roads. Further, such dedication in
6 no way indicates the County's acceptance of a road.
7

8 **Section 12.13 Preliminary Road Acceptance**

9

10 Preliminary acceptance is an initial approval of the roads by the County. It shall follow an official
11 inspection and written report of findings by the County's Road Manager. Accompanying the subdivider's
12 written request for such an inspection shall be an updated version of the Road Construction Plan. It shall
13 contain a statement from the subdivider's engineer in that the information contained thereon is as-
14 constructed. Such inspection and report shall verify and certify that the dedicated roads have been
15 constructed according to and meet design standards in Article 12.
16

17 **Section 12.14 Final Road Acceptance**

18

19 The subdivider shall blade and maintain the accepted roads in good repair for no less than twenty-four (24)
20 months from the date the roads pass preliminary acceptance. During such time, the County shall advise
21 the subdivider to take those actions necessary to keep the roads in the same general condition that they were
22 in for the preliminary acceptance. If in the opinion of the County, the subdivider does not adequately
23 maintain the road or if unusual or excessive reconstruction or maintenance obligations seem evident, the
24 County reserves the right to extend the test wear period.
25

26 Ninety (90) days prior to the end of the test wear period, the subdivider may apply to the County Road
27 Manager for the road's acceptance. The County Road Manager shall inspect the roads and issue a report
28 on their condition. Should the Lincoln County Commission find the roads to meet road requirements, and
29 a minimum of twenty-four (24) months have passed since preliminary acceptance, the County shall accept
30 the dedicated roads. Should the Lincoln County Commission deem the roads to be unsuitable, it shall
31 notify the subdivider of those problems requiring remedial actions. The subdivider shall take whatever
32 steps are necessary to upgrade the roads in a manner that will make them acceptable to the County and may
33 re-apply after a time period designated by the Road Manager, but not to exceed two years.
34

35 **Section 12.15 Road Requirements**

36

- 37 A. The roadways shall be designed to carry the projected traffic flows generated by the
38 subdivision. The gravel roadways shall be a minimum of two driving lanes, twelve (12')
39 feet wide, with a minimum two (2') foot shoulder each side. If approved, paved roads shall
40 be a) a three-course asphaltic surface treatment, b) plant mix bituminous pavement or c)
41 chip seal, as shown on the typical roadway section. A minimum 6" of I-B or II-B Base
42 Course conforming Section 304 of N.M.S.H.T.D. Standard Specifications for Highway
43 and Bridge Construction, most current edition, shall be included for the typical section.
44 Subgrade shall be scarified to a depth of 8", watered and compacted to 95% of minimum
45 density as determined by AASHTO modified T-180. Roadways shall maintain a two
46 percent (2%) crown at centerline or slope full road two percent (2%) to the inside on all
47 curves and on sidehill cuts or fills over eight feet (8').
48
49 B. Minimum typical roadway sections as shall be shown in this Article.

2013 JUL 17 PM 2:05

- C. Typical street layout shall be as shown in this Article.
- D. Minimum typical culvert installation shall be as shown in this Article and with the structure specifications in Article 14.
- E. Dimension minimums referenced in this Ordinance are guidelines below which road provision shall be considered substandard. The basis for all streets proposed and constructed shall be acceptable engineering interpretations.
- F. Unless otherwise stipulated by the County, all materials incorporated within and work performed in the construction of streets shall meet the requirements of the appropriate portions of the most recent version of The New Mexico Department of Transportation Standard Specifications and/or Detail Drawings. The table below lists some pertinent specification sections. Sections not listed shall not relieve the subdivider from complying with The Department of Transportation Standards. Approximate material applications rates have also been provided for the subdivider's information. Actual application rates shall vary as required to provide the most satisfactory finished product. (This Article.)
- G. The subdivider shall be required to prove that materials supplied and items constructed meet this Ordinance. Certifications and test results shall verify such factors including but not limited to asphalt grades, aggregate gradations, mix design, applications rates and compaction percentages.
- H. The County reserves the right to require materials that will enhance economics and facilitate operations associated with long term maintenance efforts. Prior to the placing of any materials within a street section, the subdivider shall check with the County for suitability. Materials that meet the New Mexico Department of Transportation Standards without having County approval for utilization within a particular street section might not be acceptable, *per se*.

Section 12.16 Road Surfaces

All roads in proposed Type-one and Type-two Subdivisions may be surfaced with a triple penetration treatment. At their own discretion, subdividers may (and are encouraged to) utilize hot mix bituminous asphalt surfacing (two-inch [2"] minimum) and/or additional asphaltic penetration or wearing courses.

**Table T-12.16
Standard Specifications for Highway and Bridge Construction, most current edition**

MATERIAL DESCRIPTION	NEW MEXICO STATE HIGHWAY DEPARTMENT STANDARD SPECIFICATIONS (Current Edition)	APPROXIMATE APPLICATION RATES
Subgrade	207	8" @ 95% Compaction
Base Course	304	6" Minimum
Prime Coat	408	0.30-0.50 gal/s.y.

2013 JUL 17 PM 2:05
2" Minimum

Plant Mix Bituminous Pavement	401	
Bituminous Surface Treatment (Penetration)	410	3 Course See Below

MULTICOURSE §410

*First 3/4" Course----- Aggregate 40-50 lbs/s.y.
Asphalt 0.30-0.50 gal/s.y.*

*Second 5/8" Course----- Aggregate 20-50 lbs/s.y.
Asphalt 0.40-0.60 gal/s.y.*

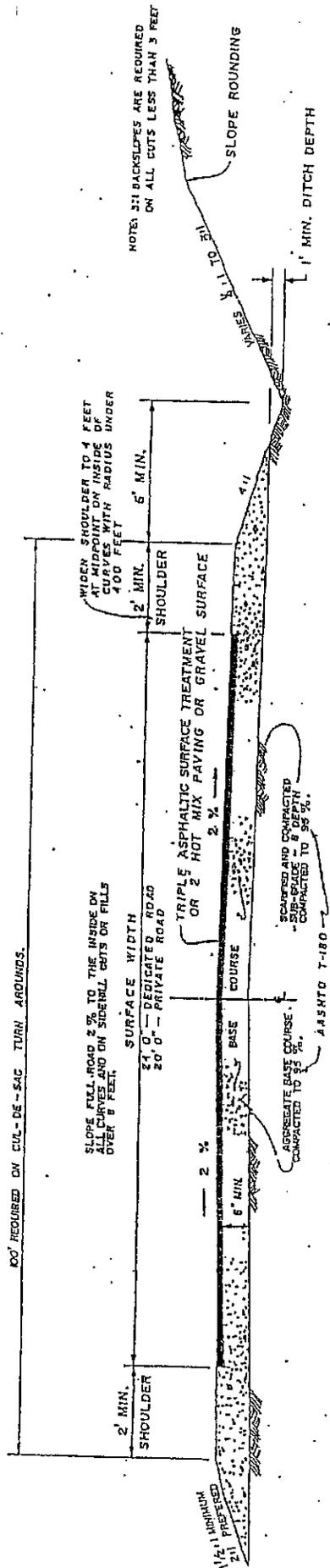
*Third 3/8" Course----- Aggregate 15-25 lbs/s.y.
Asphalt 0.30-0.50 gal/s.y.*

Supplement to NMSHTD Specification 410

3/4" aggregate gradation
100% passing 3/4" sieve
0-12% passing No. 4 sieve
0-2% passing No. 10 sieve

Note: State Highway Specification numbers are subject to change with the issuance of updated standards. Application asphalt means residual-asphalt after correction for temperature and volatile materials are considered.

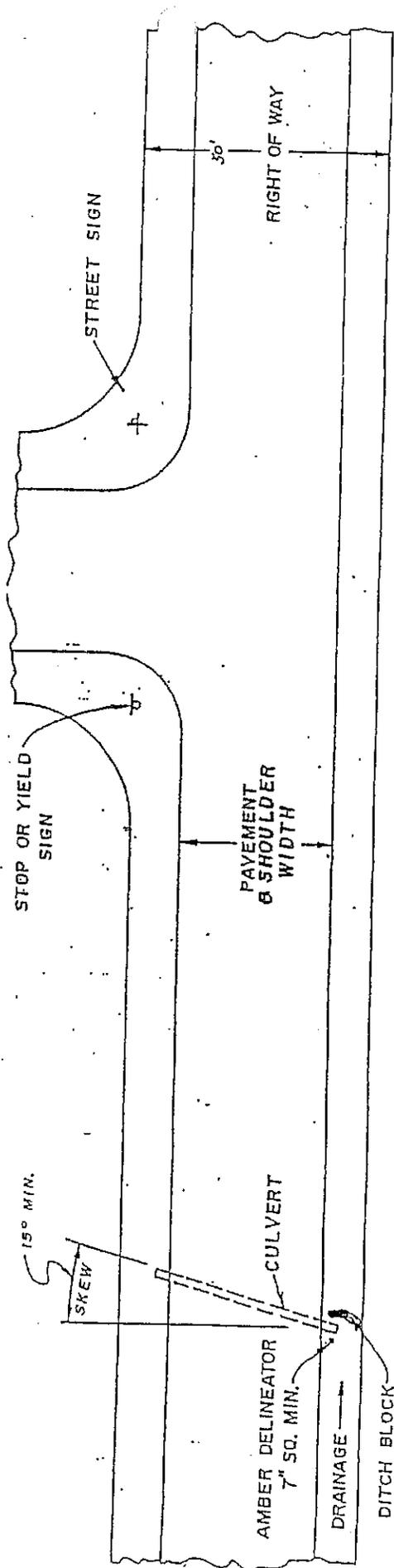
2013 JUL 17 PM 2:05



TYPICAL ROADWAY SECTION

No. Scale

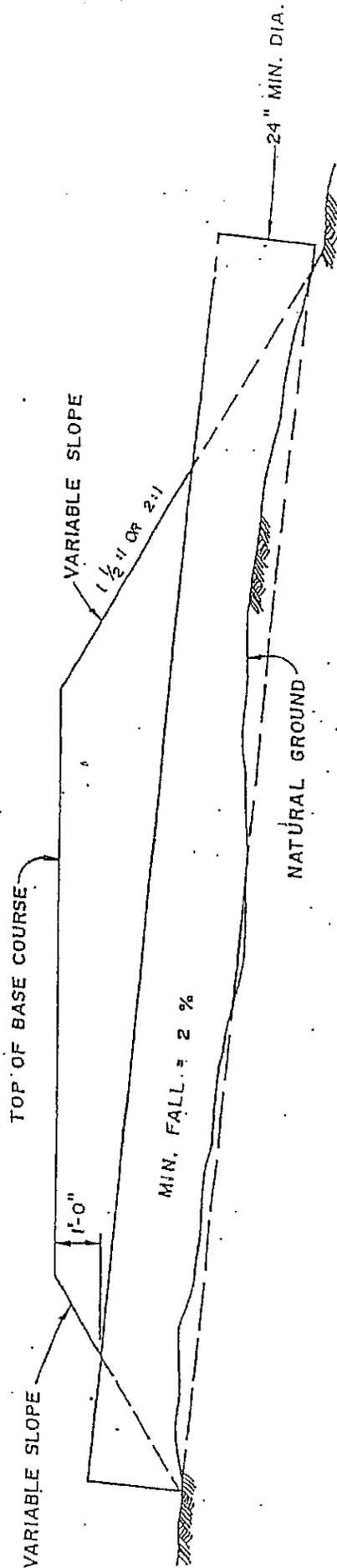
2013 JUL 17 PM 2:05



TYP. STREET LAYOUT

No. Scale

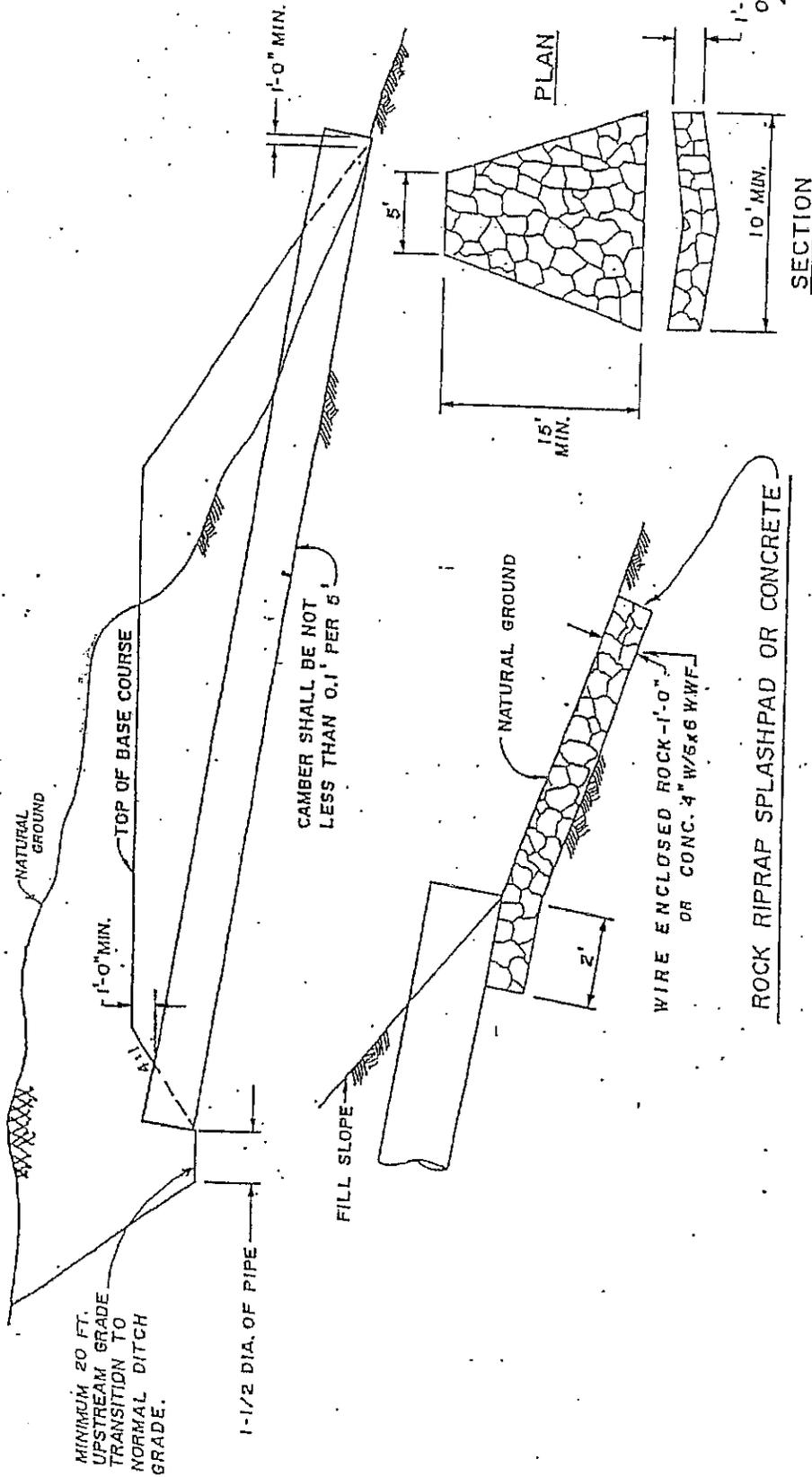
2013 JUL 17 PM 2:05



CULVERT INSTALLATION EMBANKMENT SECTION

No Scale

2013 JUL 17 PM 2:05

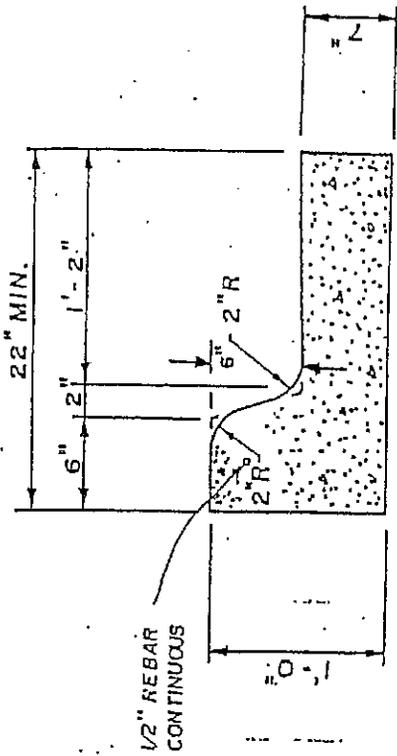
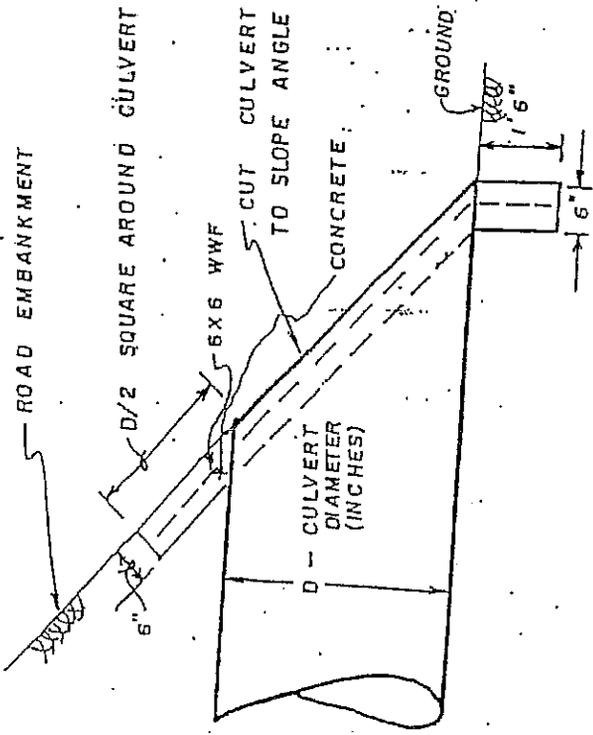


NOTE:
ALL CULVERTS MUST DISCHARGE AT NATURAL GROUND LEVEL. GRADIENT OF CULVERTS ON SIDEHILL INSTALLATIONS NOT LESS THAN APPROACHING ROAD GRADIENT. INSTALL STABILIZATION AS REQUIRED TO PREVENT EROSION. UNLESS INSTALLED IN EXISTING DRAINAGE, ALL DITCH RELIEF CULVERTS SHALL BE SKEWED AHEAD (DOWNHILL) OF THE INLET END OF THE CULVERT. SPLASHPADS REQUIRED ON CULVERTS ENDING IN ARROYOS, DRAINAGES OR HILLSIDES EXCEEDING 3% SLOPE AND ON ALL CULVERTS OVER 24" IN DIAMETER.

CULVERT INSTALLATION - SIDEHILL SECTION

No Scale

2013 JUL 17 PM 2:05



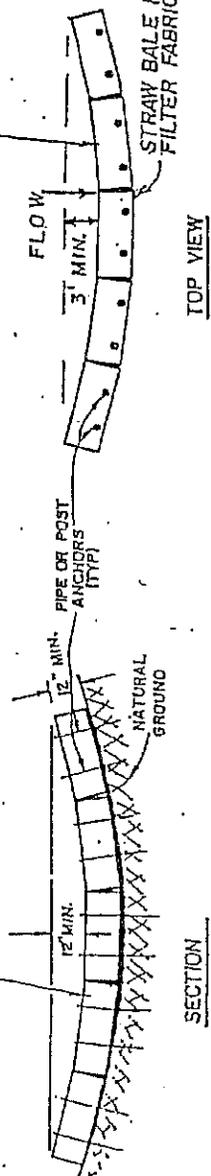
SLOPE PROTECTION

NO SCALE
REQUIRED ON ALL CULVERTS OVER 30" DIAMETER
REQUIRED ON BOTH ENDS OF CULVERT

TYP. CURB & GUTTER SECTION

No Scale

- 1) MINIMUM WIDTH IS 25 FEET UNLESS TERRAIN DICTATES SHORTER OR LONGER LENGTHS.
- 2) DISTANCES BETWEEN BASINS IS 50 FEET OR AS STAKED.
- 3) SEE DRAWINGS ON THIS SHEET FOR CONSTRUCTION DETAILS.



SILT BASIN

NO SCALE

2013 JUL 17 PM 2:06

ARTICLE 13 REQUIRED IMPROVEMENTS

Section 13.1 Water and Sewer Systems:

Type-one: A community water system shall be required in any Type-one subdivision. A community sewer system shall be required in any Type-one subdivision containing any lot less than two (2) acres in size. Individual sewer systems for Type-one subdivisions containing any lot two (2) acres or more in size may be approved if such systems meet the requirements of the Environment Department. For all Type-one subdivisions, the subdivider shall provide proof that the person providing the water has a valid water right permit issued by the State Engineer pursuant to Sections 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978, sufficient in quantity to meet the maximum annual water requirements of the proposed subdivision. The Board shall not approve the final plat unless the State Engineer has issued a water permit for subdivision use.

Type-two: A community water system shall be required in any Type-two subdivision. A community sewer system shall be required in any Type-two subdivision containing any lot less than one (1) acre in size. Individual sewer systems for Type-two subdivisions containing any lot two (2) acres or more in size, may be approved if such systems meet the requirements of the Environment Department. An advanced wastewater treatment system shall be required for any lot less than two (2) acres in size. For all Type-two subdivisions, the subdivider shall provide proof that the person providing the water has a valid water right permit issued by the State Engineer pursuant to Sections 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978, sufficient in quantity to meet the maximum annual water requirements of the proposed subdivision. The Board shall not approve the final plat unless the State Engineer has issued a water permit for subdivision use.

Type-three: A community water system shall be required in any Type-three subdivision. Any Type-three subdivision containing any parcel smaller than one (1) acre in size shall be required to provide for a community sewer system. Individual sewer systems for Type-three subdivisions containing any lot two (2) acres or more in size, may be approved if such systems meet the requirements of the Environment Department. An advanced wastewater treatment system shall be required for any lot less than two (2) acres in size. For all Type-three subdivisions, the subdivider shall provide proof that the person providing the water has a valid water right permit issued by the State Engineer pursuant to Sections 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978, sufficient in quantity to meet the maximum annual water requirements of the proposed subdivision. The Board shall not approve the final plat unless the State Engineer has issued a water permit for subdivision use.

Types-four and -five: A community water system shall be required in any Type-four and -five subdivisions. Individual-sewer systems for Type-four and -five subdivisions may be approved if such systems meet the requirements of the Environment Department. For all Type-four and Type-five subdivisions, the subdivider shall provide proof that the person providing the water has a valid water right permit issued by the State Engineer pursuant to Sections 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978, sufficient in quantity to meet the maximum annual water requirements of the proposed subdivision. The Board shall not approve the final plat unless the State Engineer has issued a water permit for subdivision use.

The water supply for all proposed uses shall be provided by the subdivider in Types-one, two, three, four, and five subdivisions, and shall be specified as to the source and quantity to be provided.

2013 JUL 17 PM 2:06

1 Lots within subdivisions approved without the requirement for a community sewer system, based on the
 2 restrictions set forth above, shall not be further subdivided so that any portion of a further subdivision
 3 results in a lot size of less than the restrictions set forth above, unless an approved community sewer system
 4 is provided for the entire subdivision. No variance from this restriction shall be granted. Notice of this
 5 restriction shall be included in the disclosure statement. Any tract set aside for public use, i.e. fire station
 6 and/or solid waste, or non-developed green or open space, shall not be taken into consideration in
 7 determining whether or not a community water system or sewer system shall be required.
 8

9 **Section 13.2 Development Package**

10
 11 The Development Plan shall be included with all submittals of the plat. The plat is considered a part of the
 12 Development Plan and vice versa Any signatures on the plat document include approval of the
 13 Development Plan package. Development Plan shall incorporate, at a minimum, Articles
 14 5,12,13,14,16,17,19 of this Subdivision Ordinance. All of the items listed in 13.1-13.4 shall be included
 15 in the Development Plan package unless specifically exempted. The letter of exemption shall be included
 16 in the package if applicable. The following subsections of Article 13 are necessary inclusions of the
 17 Development Plan Package
 18

19 **Section 13.3 Accessory Documents**

- 20
 21 A. certification of title showing that the subdivider is the rightful owner of the land, and
 22 that the subdivision as it appears on the plat is with the free consent and in accordance
 23 with the desires of subdivider, which certification shall be signed by the subdivider;
 24
 25 B. the plat shall contain a Planning and Platting affidavit stating the proposed subdivision
 26 does or does not lie within the planning or platting jurisdiction of any municipality;
 27
 28 C. signed statement by the subdivider dedicating streets and other rights-of-way, granting
 29 easements for public use, dedicating any sites for public use, and agreeing to build all
 30 roads within the subdivision in full conformance with the requirements of the County
 31 Subdivision Ordinance and the County road construction standards;
 32
 33 D. certification of approval of street names by the County Rural Addressor;
 34
 35 E. certification for approval by the Planning Commission;
 36
 37 F. certification of approval and notarization by the appropriate utility company executive
 38 officer
 39
 40 G. For any subdivision requiring construction of a public water supply system or a
 41 community liquid waste system, documentation of approval from the New Mexico
 42 Environment Department shall be required for final plat approval.
 43
 44 H. a certificate by the Lincoln County Board of Commissioners or their designated
 45 representatives certifying that the subdivider has complied with one of the following:
 46
 47 1. all improvements have been installed in accordance with the requirements of
 48 this Ordinance;
 49

2013 JUL 17 PM 2:06

2. a performance bond or certificate of deposit must be filed with the County Clerk in sufficient amount to assure completion of developer provided improvements. The Bond shall be based on engineering cost estimates. The Performance Bond will not be required after acceptance of a Maintenance Bond;
3. the maintenance bond in the amount of 15% of the Performance Bond must be filed and continued for the two-year test period of the developer-provided improvements after preliminary acceptance and until final acceptance by the County Commission.

Section 13.4 Covenants

Copies of all covenants, deeds or homeowners association by laws for development and maintenance of the subdivision;

Section 13.5 Disclosure Statement

For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format provided in the Appendix of this Ordinance. It is unlawful to sell, lease, or otherwise convey land in a subdivision until the required disclosure statement has been filed with the County Clerk, the Board of County Commissioners, and the Attorney General's Office; and until the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement. Copy of disclosure statements signed by the subdivider must be included in the Development Plan Package. The Disclosure Statement, once filed with the Lincoln County Clerk, may not be amended without the express written approval of the Board of County Commissioners.

Section 13.6 Engineering and Technical Documents

Liquid Waste Management Plan, Solid Waste Management Plan, Water Plan, Road Plan, Terrain Management Plan (including soils report), and Drainage Plan shall be included in the Development Plan to the specifications outlined in there respective Article of this Ordinance.

Section 13.7 Development Plan Requirements

13.7.1 Rights-of-Way Widths

Minimum public or private street rights-of-way widths shall no be less than fifty feet (50'). A four (4) lane street minimum right-of-way shall be eighty feet (80').

13.7.2 Blocks

The length of blocks may vary as required by the width of the lots fronting along the street right-of-way. The maximum block length shall be no greater than the length required by the width of thirty (30) contiguous lots fronting on one side of the right-of-way. Block lengths longer than those specified herein may be allowed when terrain and topographic conditions warrant. The width of the block shall be sufficient to provide two (2) rows of lots. A block may be one (1) lot in depth where a single tier of lots is required to separate residential development from a major street or a non-residential use.

2013 JUL 17 PM 2:06

1 13.7.3 **Lots**

2
3 Shapes and location of lots shall be governed by topographic conditions, use, and surrounding or adjacent
4 areas.

5
6 13.7.4 **Egress and Ingress**

7
8 Every lot shall have egress and ingress to a public thoroughfare and shall be permanently marked with
9 metal stakes at each corner of the lot and identifying metal stake at one corner. All lots are required to have
10 a minimum 50-foot frontage on a roadway.

11
12 13.7.5 **Double Frontage Lots Should Be Avoided**

13
14 Backing up a lot to an existing high traffic road is not considered as double frontage. Side lot lines shall
15 be substantially at right angles or on a radial line to street lines.

16
17 Caution should be exercised in the layout of lots adjacent to a highway with a large traffic count and
18 adjacent to a railroad, because of the noise level and night lights. Normally these lots should be deep.

19
20 When a commercial or industrial area is part of or all of a subdivision, consideration must be given to
21 provide off street parking when sizing the lots.

22
23 13.7.6 **Easements and Rights-of-Way**

24
25 Driveway access in the County right-of-way will be a minimum width of 24 feet and a maximum of 30 feet
26 with culverts of a minimum of 18 inches, and larger if deemed necessary by the road foreman. The portion
27 of driveway in the County right-of-way will be pursuant to road foreman requirements. This shall be
28 included in the Disclosure Statement.

29
30 Utility easements centered on rear or side of lot lines shall have a minimum width of twelve feet (12').
31 These easements must be approved by the local utility companies, including telephone companies.

32
33 In any subdivision with a common boundary to a National Forest, the utility easements are to be located
34 entirely within the subdivision and not centered on rear or side of lot lines.

35
36 Lakes, ponds and similar areas will be accepted for maintenance only if sufficient land is dedicated as a
37 public recreational area or park, or if such area constitutes a necessary part of the drainage control system.

38
39 13.7.7 **Buffer Strips**

40
41 It is required that in residential districts a buffer strip at least fifty feet (50') in depth in addition to the
42 normal lot depth required be provided adjacent to all railroad rights-of-way, limited access highway rights-
43 of-way, and commercial developments. This strip may be a part of the platted lots, but shall have the
44 following restriction lettered on the face of the plat: "This strip reserved for the planting of trees or shrubs
45 by the developer or owner - the building of structures hereon is prohibited." This shall not apply to
46 marginal access (service) roads.

2013 JUL 17 PM 2: 06

1 13.7.8 **Parking**

2
3 Depth and width of properties reserved or laid out for commercial use and industrial purpose shall be
4 adequate to provide for the off street services and parking facilities required by the type of use and
5 development contemplated as specified in this Ordinance.
6

7 13.7.9 **Utilities**

8
9 All utilities shall be placed according to general practice in the area and stubbed out so as to prevent
10 unnecessary road cuts in accordance with the Lincoln County Excavation Ordinance. See: Utility
11 Company.
12

13 13.7.10 **Signage**

14
15 Subdivider/Developer will provide and install at his expense, street signs and other addressing signage,
16 which may be required by County regulations. Such signage shall conform to County standards.
17

18 13.7.11 **Solid Waste Disposal**

19
20 The subdivider must provide for suitable locations within the subdivision for locating waste containers for
21 disposal of solid waste generated by residents of the subdivision. The descriptions of the removal
22 schedule, payment, and storage of solid waste shall be outlined in the Solid Waste Management Plan to be
23 included in the Development Plan. Developer shall provide written approval by the applicable solid waste
24 disposal company of its Solid Waste Management Plan.
25

26 **ARTICLE 14 FLOOD CONTROL AND DRAINAGE PLAN**

27
28 **Section 14.1 Development on Floodways Prohibited**

29
30 The County of Lincoln adopted Ordinance No. 2011-05, known as the Lincoln County Flood Damage
31 Prevention Ordinance, as may hereafter be amended, for the purpose of regulating flood hazard area land
32 use, and in order to effectively comply with minimum standards for coverage under the National Flood
33 Insurance Program.
34

- 35 A. In approving a subdivider's plat, the Board of County Commissioners may, if
36 recommended by a professional engineer, as a condition of approval, require fills,
37 dikes, levies or other diversion measures.
38
39 B. When a subdivision is traversed by a water course, drainage way, channel or storm
40 drainage, the plat must provide rights-of-way for flood control measures
41 conforming with the lines and flood way of such watercourse.
42
43 C. All subdivision proposals including the placement of manufactured home parks
44 and subdivisions shall be consistent with the Lincoln County Flood Damage
45 Prevention Ordinance in addition to the following specifications:
46
47 D. Floodplains consisting of a drainage basin of 640 acres or more shall show
48 maximum water surface elevations in the Development Plan for the 100-year
49 storm event (using the hourly intensity producing the greatest flow rate) where the

2013 JUL 17 PM 2:06

floodplain crosses through all lots. These elevations shall be shown (the lesser of) every 500' within the subdivision boundary or the floodplain perpendicular to the expected house pad.

- E. A hatched or shaded area show on the plat with a general description and labeled as the floodplain. A differentiation between the flood fringe and floodway shall be determined and shown on the plat if the developer plans on flood protecting (fill grading the site to 1' above 100-yr water surface elevation) portions of the flood fringe.
- F. Show flowline of defined drainage concentrations with contributing basins between 20 and 640 acres shall on the plat with a single line.

Section 14.2 Drainage Design (Minimum Standards and Requirements)

- A. A drainage structure shall be installed at all points of drainage concentration and in the case of side hill construction, spaced to drain the excavated roadside ditch and prevent over topping the roadway and subgrade
- B. All drainage structures shall be of sufficient size to carry the estimated runoff with head water below the roadway subgrade shoulder and without creating objectionable flooding by the entrance pool. Roadside ditch erosion protection shall be constructed where water velocities exceed five feet (5') per second, except where the channel is in rock.
- C. All drainage structures shall be designed to carry the estimated runoff for a fifty (50) year return period rainfall (a two percent (2%) chance of occurrence storm in one (1) year).

Section 14.3 Drainage Structures

Drainage structures shall be required in conformance with subdivider's Storm Drainage Plan as required for preliminary plat approval. They shall be designed to contain a flood with a frequency of one (1) in every fifty (50) years.

- A. Drainage structures shall comply with the following specifications:
 1. Corrugated galvanized steel pipe and pipe arches, AASHTO Manual.
 2. Corrugated aluminum pipe and pipe arches, AASHTO Manual 196.
 3. Reinforced concrete pipe, AASHOM-170.
 4. Steel and aluminum culvert pipe shall be minimum 16 gauge.
 5. Reinforced concrete pipe shall be minimum Class II.

- 1
2
3
4
5
6
7
8
6. All culvert pipe shall be installed in accordance with the New Mexico Department of Transportation Standard Specifications using minimum bedding condition C and shall be backfilled in accordance with those standards using select friable material.
 7. The subdivider shall provide manufacturers' certifications proving that the materials supplied meet these specifications.

9 **Section 14.4 Drainage Plan Requirements**

10
11 Storm drainage computations of the estimated run-off from the subdivision following completion of
12 development.

- 13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
- A. Quantities of water carried by major drainage courses and proposed treatment of major drainage courses.
 - B. The location, type and size of proposed drainage and erosion control structure.
 - C. The location of major drainage and water course easements.
 - D. Sufficient runoff information on the areas contributing runoff to the subdivision to show existing drainage patterns and drainage courses that may affect the subdivision or be affected by the subdivision; and
 - E. All appropriate design details necessary to clearly explain the construction of all necessary drainage control structures.
 - F. The subdivider shall substantially prove that all storm drainage systems shall be adequate for two (2) percent chance of occurrence of a flood.
 - G. Showing all appropriate design details necessary to clearly explain the construction of all subsurface structures.
 - H. Report text in the front of the Drainage Plan shall be included. It shall discuss general project characteristics, existing and proposed drainage, methodology of hydrology and hydraulic calculations, and conclusions.
 - I. Drainage Plan shall be signed by a Registered New Mexico Professional Engineer. Engineer's signature on front cover of Development Plan Package shall incorporate Drainage Plan if Drainage Plan is not separately signed.
 - J. The subdivider shall provide proof to the County Planning office of an approved Storm Water Pollution Prevention Plan prior to beginning construction.

45 **ARTICLE 15 MOBILE HOMES**

46
47 **Section 15.1 Pertinent Requirements**

2013 JUL 17 PM 2:06

1 Each Mobile Home Subdivision shall meet all pertinent requirements for the subdivision classification
2 (Types one through five) under which it is determined to fall. All design and construction shall be in
3 conformance with the appropriate sections of the most recent versions of the Uniform Building Code and
4 the National Fire Protection Association (NFPA) "Standard for Fire Safety Criteria for Mobile Home
5 Installation Sites and Communities", the Lincoln County Fire Ordinance and the International Fire Code
6 and the Lincoln County Manufactured Home Permit Ordinance and all documents referenced therein.
7

8 **Section 15.2 Additional Design Criteria:**
9

- 10 A. Internal collector streets shall be required. No direct access from lots to State, County or
11 other arterial streets will be permitted.
12
13 B. Multiple entrances to the subdivisions and through local streets should be provided in
14 preference to cul-de-sacs.
15
16 C. Driveways must conform to County permit standards.
17
18 D. Collector and local street speed shall be a maximum of ten (10) miles per hour. Speed
19 limit and traffic control signs shall be required. Such signing will be installed at the
20 expense of the subdivider.
21
22 E. The street sections shall be constructed and maintained for the full width of the obstacle
23 free area as shown on Pages 41, 42, 43, 44, and 45.
24
25 F. The corner sight distance at the intersection of all local streets within the subdivision shall
26 be a minimum of ninety feet (90'). Corner sight distances at the intersections between
27 subdivision streets and those with speed limits in excess of ten (10) miles per hour will be
28 based on proper engineering interpretations.
29
30 G. The inside edge of street radii at all intersections shall be a minimum of thirty feet (30').
31
32 H. Mobile homes shall not be stacked vertically over each other, in whole or in part unless the
33 structures involved are specifically designed and authorized for such purposes by the
34 manufacturer, and the design and installation are approved by a Registered Engineer in the
35 State of New Mexico. All responsibilities and costs for securing such approvals shall be
36 borne by the subdivider.
37
38 I. No portion of a mobile home, including attached structures and excluding the tongue, shall
39 be located closer than twenty feet (20') side to side, twenty feet (20') end to side, or fifteen
40 feet (15') end to end horizontally to any other mobile home unless the exposed composite
41 walls and roof of either structure are without openings and also constructed of material
42 which will provide a one (1) hour fire-rating or the structures are separated by a one (1)
43 hour fire-rated barrier.
44
45 J. For each dwelling located thereon, each lot shall be provided with enough space to park
46 at least two (2) motorized vehicles off street. The minimum dimensions of the parking
47 area per vehicle accommodation capability shall be twenty feet (20') by ten feet (10').
48

2013 JUL 17 PM 2:06

- 1 K. Each lot within the subdivision shall be sized to accommodate the largest mobile home,
2 including accessories, whether attached or not, that will be located on it, plus utilities and
3 all required parking, separation, clear, safety, and other areas. Mobile homes including
4 accessories, whether attached or not, will not be permitted on lots which have not been
5 sized to properly and/or safely accommodate them. In the Restriction Section of the
6 Disclosure Statement, the subdivider shall detail any size, accessory or other limitation on
7 a lot, block or subdivision basis.
8

9 **Section 15.3 Application of Criteria, Most Stringent Shall Govern.**

10 In the application of criteria affecting mobile homes, the most stringent shall govern. The County reserves
11 the right to make final decisions on any conflicting situations.
12
13

14 **ARTICLE 16 TERRAIN MANAGEMENT PLAN**

15
16 **Section 16.1 Terrain Management Plan**

17
18 The Terrain Management Plan must:

- 19
20 A. Realistically and adequately provide for the long range protection of the area to be
21 subdivided;
22
23 B. Demonstrate minimization erosion and deterioration of the natural features of the
24 subdivision; and
25
26 C. Be reviewed by the local Soil and Water Conservation District. (The Terrain Management
27 Plan is submitted by the subdivider to the County Planning Department, who in turn
28 obtains the review of the Soil and Water Conservation District.)
29

30 **Section 16.2 Maps Required**

31
32 Terrain Management Plans for all subdivision Types shall include the following maps and information:
33 (The same maps used in the Commission Conference Review may also be used for the Terrain
34 Management Plan.)
35

- 36 A. Vicinity map drawn to a scale of not less than two thousand feet (2,000') to one inch (1")
37 showing contours at fifty feet (50') intervals, the relationship of the site to its general
38 surroundings, and the location of all existing drainage channels, water and erosion control
39 structures, water courses, and water bodies within three (3) miles of the subdivision.
40
41 B. Subdivision base map drawn at a scale which clearly shows the boundaries of the area to
42 be subdivided.
43
44 C. Contours overlay of the subdivision Type-one and Type-two and other intervals which
45 clearly indicate the slopes and grades. Indicate on this map all drainage channels,
46 watercourses, and water bodies. If proposed grading is limited to directly adjacent to the
47 roadways, the information in the contours overlay may be shown on the Road and
48 Drainage Plans.

2013 JUL 17 PM 2:36

- 1 D. A soil survey overlay showing the various soil types drawn to the scale of the subdivision
2 map for all Types subdivisions. The soil survey overlay will show the location of each soil
3 type and the principal vegetation characteristics on the subdivision including major rock
4 outcroppings, slopes over eight percent (8%) and wooded areas, grasslands, forests, the
5 location of all areas the subdivider intends to revegetate and all areas where the vegetation
6 will be preserved.
7

8 **Section 16.3 Cut and Fill Slope Grading and Erosion**

9
10 A general grading plan setting forth the means for stabilizing and revegetating all cut and fill slopes.

11
12 The following discharges attributable to grading are prohibited whether the discharge is direct or indirect:

- 13
14 A. Sediment and other organic or earthen materials discharged into a watercourse, water
15 body, drainage channel or flood plain;
16
17 B. Material placed in any position which would make it susceptible to erosion and deposition
18 into a watercourse, water body, drainage or flood plain.
19

20 All grading and filling operations shall proceed according to a schedule. The schedule shall limit to the
21 shortest possible period, the time that soil is exposed and unprotected.
22

23 Fills which settle more than ten percent (10%) of the height of the fill within twenty-four (24) months of
24 the date of contract completion are to be reopened and redone. This also includes settling causing damages
25 to all property including public property.
26

27 **Section 16.4 Soils**

28
29 The subdivider shall provide adequate information which shows the intended construction or development
30 and land use to be appropriate to and feasible on the soil tested or intended to be used. Soil not suitable
31 or having a high degree of hazard for the intended use shall not be developed for the intended use unless
32 the subdivider can substantially prove that the inherent soil limitations can be overcome by engineering
33 design. Soil suitability will be ascertained from soil survey engineering interpretations.
34

35 The results of the soil survey for subdivision Types-one and -two and others as may be required shall be
36 described on maps or overlay maps at a scale of 1" equal 200 feet or the same scale permitted for the
37 subdivision base map.
38

- 39 A. **Soil limitations for proposed uses.** The subdivider shall provide adequate information
40 which shows the intended construction or development and land use to be appropriate to
41 and feasible in the soil tested or intended to be used. Soil must be suitable or having a
42 high degree of hazard for the intended use shall not be developed for the intended use
43 unless the subdivider can substantially prove that the inherent soil limitations can be
44 overcome by engineering design. Soil suitability will be ascertained from soil survey
45 engineering interpretations.
46

47 Soil recommendations shall accompany a report text signed by a Registered New Mexico Professional
48 Engineer.

2013 JUL 17 PM 2:06

Section 16.5 Utilities

The type of utilities to be provided, as well as a statement indicating whether or not the utilities are to be installed above ground or underground. All utility work is to be done in accordance with the Lincoln County Excavation Ordinance, where applicable. Final as-built plans for all utilities installed for the project shall be provided to the County Planning Department, no later than the date of the final inspection of the roads and infrastructure of the subdivision.

Section 16.6 Lot Design (Relating to Terrain Features)

Arrangement: The size, shape and location of all lots shall be such that there will be a minimum of foreseeable difficulties, for reasons of topography, soils or other conditions, in securing building permits, installing septic systems or similar development actions.

Section 16.7 Removal of Cleared Vegetation

All vegetation removed during clearing operations shall be disposed of in a legal manner.

ARTICLE 17 WATER AVAILABILITY PLAN**Section 17.1 General Review Procedures for Water Supply Plans**

The applicant shall provide a water supply plan, which consists of the submittals required below in Section 17.2.1. All water supply plans for proposed subdivisions of six (6) lots and greater shall include a hydrologic report and shall be submitted by the County Planner to the New Mexico Office of the State Engineer (OSE) and the New Mexico Environment Department (NMED).

Section 17.2 General Requirements and Submittals for a Water Supply Plan**17.2.1 Requirements Dependent on Type and Scale of Development and Amount of Water Use**

The requirements and submittals associated with water supply are dependent on the type and scale of development and the amount of water use, and are set forth in the following Sections of this Article:

Section 17.2.2 - Required Water Rights Permits

Section 17.3 - Water Availability Assessments

Section 17.4 - Community Water Systems

Section 17.6- Water Quality

Section 17.7 - Well Construction

Section 18.1 - Water Conservation

Section 18.5 - Fire Protection

17.2.2 Required Water Right Permits**17.2.2a All Subdivisions**

2013 JUL 17 PM 2:06

1 All subdivisions with any lot less than five (5) acres in size, containing six (6) or more parcels, shall
2 provide proof that the person providing the water has valid water rights recognized by the State Engineer
3 pursuant to Sections 72-5-1, 72-5-13, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978, sufficient in
4 quantity to meet the maximum annual requirements of existing commitments and the proposed subdivision.
5

6 The Board may approve a final plat contingent upon the State Engineer's approval of the transfer
7 of the water rights necessary to meet the maximum annual water requirements of the proposed
8 subdivision. In the event the developer has not obtained the approval of the transfer of the necessary
9 water rights by the State Engineer for subdivision use within two (2) years of the conditional
10 approval of the final plat, the approval shall automatically be rescinded unless, prior to the
11 expiration of this two-year (2-year) period, the developer seeks an extension of time and such
12 extension is approved by the Board.
13

14 **Section 17.3 Water Availability Assessments**

15 16 **17.3.1 Requirements for Water Availability Assessments**

17
18 Water availability assessment means an evaluation to demonstrate that sufficient quantities of potable water
19 are available to supply the maximum annual water requirements of the proposed subdivision for all indoor
20 and outdoor domestic uses over a 40-year period. Water Availability Assessments must be performed
21 within three (3) years of their initial submission for approval by the County Planner. Components of the
22 assessment shall include:
23

24 **17.3.1a Quantification of Annual Water Requirements**

25
26 The annual maximum water use for both indoor and outdoor purposes for each parcel in a residential
27 subdivision containing a community water system shall be .25 acre-foot per year, unless a detailed water
28 demand analysis approved by the Board of County Commissioners justifies the use of a different figure.
29

30 **17.3.1b Source of Supply New Surface Water Diversion and Community System**

31
32 For developments where the source of supply will be a new surface water diversion and community system
33 pursuant to Section 72-5-1, 72-5-23 or 72-5-24 NMSA 1978, the applicant shall submit a hydrologic report
34 and other information in accordance with Section 17.3.3;
35

36 **17.3.1c Water Conveyance and Delivery**

37
38 Means of water conveyance and delivery within the Subdivision.
39

40 **17.3.1.d Limitations and Restrictions on Water Usage**

41
42 Limitations and restrictions on indoor or outdoor water use in the subdivision and summary of covenants
43 for said restrictions or conservation measures.
44

45 **17.3.1.e Monitoring of Water Usage**

46
47 Description of measures, if any, to be used to monitor or restrict water use within the subdivision

2013 JUL 17 PM 2:06

1 17.3.1f **Source of Supply Existing Community or Municipal Water Supply System**

2
3 For developments where the source of supply will be an existing community or municipal water supply
4 system permitted pursuant to Section 72-5-1, 72-5-23, 72-5-24 or 72-12-3 NMSA 1978 the applicant shall
5 submit a water availability assessment in accordance with Section 17.3.4; or
6

7 17.3.1g **Developments of Five (5) or Fewer Lots**

8
9 For developments of five (5) or fewer lots, the applicant shall provide water availability information in
10 accordance with Section 17.3.5.
11

12 17.3.2 **New Community Wells and Community Water Systems**

13
14 For new community wells and community water systems, the applicant shall submit a water availability
15 assessment which includes the following:
16

17 17.3.2a **Hydrologic Report**

18
19 A hydrologic report which shall demonstrate that groundwater sufficient to meet the maximum annual
20 water requirements of the development is physically available and can be practically recovered to sustain
21 the development for a continuous period of Forty (40) years. These analyses shall take into account the
22 production of existing wells and shall demonstrate that the project wells, as proposed or as designed, will
23 be capable of producing the full annual demand for at least Forty (40) years.
24

25 17.3.2b **Applicant Shall Drill Sufficient Exploratory Wells**

26
27 The applicant shall drill sufficient exploratory wells to adequately characterize the aquifer in accordance
28 with the requirements of this Ordinance and the State Engineer's Office. Tests made within one mile of
29 the development may be utilized, provided that the report demonstrates that the geologic conditions at the
30 site of such tests are comparable to those within the development. For developments involving more than
31 160 acres, at least one test shall be within the development. Except where geologic conditions are complex,
32 the well test requirement shall not be interpreted to require more than one (1) test per four (4) dwellings.
33

34
35 17.3.2c **Applicant Shall Provide a Calculated Forty (40) Year Schedule**

36
37 The applicant shall provide a calculated Forty (40) year schedule of effects on the development's
38 production well(s) which may result from existing demands and from the increase of groundwater
39 withdrawals for the project. Analysis shall be performed to assess whether future water level declines will
40 be within the limits of allowable drawdown in the project production wells as provided in Section 17.3.2d,
41 below. Predicted draw downs shall be calculated in a conservative manner (which estimates maximum
42 drawdown). These calculations shall include estimates of future water uses.
43

44 17.3.2d **Lowest Practical Pumping Water Level**

45
46 The applicant shall calculate the lowest practical pumping water level in the proposed project pumping
47 wells according the methods presented in the Guidelines For The Assessment Of Drawdown Estimates,
48 For Water Application Processing, NMOSE Hydrology Bureau Report 06-01.

2013 JUL 17 PM 2: 06

17.3.2e **All Hydrologic Information Pertinent to the Study Area**

The hydrologic report should present all hydrologic information pertinent to the study area including that available from past hydrologic studies. All sources of information used in the report should be identified including basic data collected by the consultant who prepared the report. The report shall contain the following information:

- (i) All analyses and assessments as listed in Section 17.1, and 17.3.2a through 17.3.2f of this Section;
- (ii) Geologic maps, cross-sections and descriptions of the aquifer systems proposed for production, including information concerning the hydrologic boundaries, intake areas and locations of discharge of those aquifers;
- (iii) Maps and cross sections showing the depth-to-water, water-level contours, direction of ground water movement and the estimated thickness of saturation in the aquifers; and
- (iv) Probable yields of the proposed wells (in gallons per minute and acre feet per year) and probable length of time that the aquifer system will produce water in amounts sufficient to meet the demands under full occupation of the development. This information shall be based on pump test analyses, hydrologic boundaries, aquifer leakage and historic water level changes, logs and yields of existing wells. This information will give consideration to mutual impact of the proposed wells, and the interference of existing wells.

17.3.3 **For New Surface Water Diversions and Community Water Systems Using Surface Water**

For new surface water diversions and community water systems using surface water, the applicant shall submit a water availability assessment which includes the following: A hydrologic report which shall demonstrate that surface water sufficient to meet the maximum annual water requirements of the development is physically available. These analyses shall include the following:

- (a) Narrative and analytical demonstration that the surface water will be physically available for the proposed use given short-term and long-term fluctuations (base-flow analysis) due to climatic cycles or other factors such as induced recharge due to groundwater diversion, analyses of relevant historical runoff records, and projected water supply available for the project requirements. Applicable legal or water rights constraints on water availability shall be considered.
- (b) If the analysis of the historical runoff record indicates possible shortages in the projected water supply available for the project requirements, the applicant shall provide for either storage or a supplemental groundwater supply sufficient to meet the shortage.
- (c) If a supplemental groundwater supply is proposed, the applicant shall prepare a hydrologic assessment in accordance with Section 17.3.2e.

17.3.4 **Community Water Systems Proposing to use Existing Utility Companies**

For community water systems for which existing utility companies are proposed as the source of water

2013 JUL 17 PM 2:06

1 supply, the applicant shall submit a water availability assessment which includes the following:

2
3 (i) Name of the utility proposed as the source of supply and a letter of intent from the
4 utility that they are ready, willing, and able to provide the maximum annual water
5 requirements for the development including fire protection for at least 40 years. The letter
6 must also state any requirement for the applicant to provide water rights.

7
8 (ii) Documentation showing the quantity of water presently produced annually, quantity
9 of water supply commitments to date, and proof of sufficient water rights to meet both
10 existing commitments, existing commitments yet unserved, and the requirements of the
11 development for at least 40 years.

12
13 (iii) For New Mexico Public Utilities Commission (PUC) certified utilities, a copy of the
14 most recent annual report submitted to the PUC.

15
16 (iv) Plans for the existing water system to which the proposed system will connect into.
17 The plans shall show diversion point locations, and water storage and distribution system.
18 The size or capacity of the water system components should also be indicated
19 on the plans.

20
21 (v) Any other information, including any or all of the requirements of Sections 17.3.2 and
22 17.3.3, required by Lincoln County to make a determination that the utility has the
23 capability to meet the water requirements of the development.

24
25 **17.3.5 Subdivisions of Five (5) or Fewer Lots**

26
27 A water availability assessment for subdivisions of five (5) or fewer lots shall meet the following
28 requirements:

29
30 **17.3.5a Source Existing Community Water System or Municipal Water System**

31
32 If the source of water supply will be an existing community water system or municipal water system, the
33 applicant shall submit the following information as their water availability assessment:

34
35 (i) Name of the utility proposed as the source of supply;

36
37 (ii) Letter of intent from the utility that they are ready, willing, and able to provide the maximum
38 annual water requirements for the subdivision including fire protection.

39
40 (iii) In addition to the above, the requirements in Section 17.3.2(a-f) or 17.3.3 and 17.3.4a.

41
42 **17.3.5b Applicant Proposes New Wells or Surface Diversion for a Community Water System**

43
44 If the applicant proposes to provide new wells or surface diversion for a community water system, the
45 requirements of Section 17.3.2 or 17.3.3, whichever is applicable, shall apply.

46
47 **Section 17.4 Community Water Systems**

2013 JUN 17 PM 2:06

Community water systems shall be required for subdivisions according to the number and size of lots as indicated in Article 13, herein.

17.4.1 **Requirements For Community Water System**

17.4.1a **Developer Shall Provide Water from Existing or Proposed Systems**

When a community water system is required, the developer shall provide water from existing or proposed water supply systems for domestic use, fire protection, and any other use that the developer proposes.

17.4.1b **Completion of the Proposed Water Supply Systems**

The developer shall provide for the completion of the proposed water supply systems, in accordance with applicable minimum design standards of the New Mexico Environment Department and the Construction Industries Division.

17.4.1c **Fire Flow Requirements**

The developer shall meet the fire flow requirements set forth in Section 18.5.7.

17.4.1d **Sufficient Potable Water**

The developer shall provide sufficient potable water for full development of all properties within the proposed development which shall meet the minimum water quality standards of the New Mexico Environment Department.

17.4.1e **Distribution Mains**

All distribution mains shall be a minimum of six (6) inches in diameter.

17.4.1f **Drilling or Use of Individual and/or Shared Domestic Wells Prohibited**

It shall be noted on the final plat and plans and in the covenants and disclosure statement that the drilling or use of individual and/or shared domestic wells is strictly prohibited.

17.4.1g **Public Utility Act**

The developer shall meet all applicable requirements of the Public Utility Act, Articles 1 through 6, and 8 through 13 of Chapter 62, NMSA 1978.

17.4.2 **Submittals for Community Water Systems**

The applicant shall submit a water supply plan which demonstrates that the system will comply with the requirements of Section 17.2.1. The water supply plan shall be prepared by or under the supervision of a professional engineer and shall include the following:

17.4.2a **Volume and Peak Rate of Production**

2013 JUN 17 PM 2:06

1 Information showing the volume and peak rate of production of water required each month to supply each
2 use at full use of the development.

3
4 **17.4.2b Plans Prepared by Professional Engineer**

5
6 Plans and specifications for production or diversion, storage and distribution facilities and a time schedule
7 for their completion, prepared by or under the supervision of a registered professional engineer.

8
9 **17.4.2c Legal Description Necessary**

10
11 A legal description of the location of all construction, easements and right-of-way necessary for the
12 installation of the water supply system.

13
14 **17.4.2d Specific Site Plans**

15
16 Site plans showing topography, parcel boundaries, streets, wells, hydrants, water storage and distribution
17 system. The size or capacity of the system components shall be indicated.

18
19 **17.4.2e Well Plans**

20
21 Well plans indicating casing diameter, total depth, screened interval, and proposed pump setting.

22
23 **17.4.2f Agreement**

24
25 An agreement providing for:

- 26
27 (i) The construction and operation of the water supply system as shown in the plat
28 documents and plans.
29
30 (ii) Collateral, in the form of a performance bond or other means, to adequately assure the
31 complete construction and operation of the system in accordance with design and time
32 specifications.
33
34 (iii) Certification of the operator of the system.
35
36 (iv) Involvement as prescribed in the plat documents, of any Homeowners' Association,
37 Mutual Domestic Association, or non-profit corporation for the purpose of operation and
38 maintenance of the system.

39
40 **17.4.3 Review of Community Water Systems**

41
42 **17.4.3a County Planner's Considerations**

43
44 In reviewing community water systems the County Planner shall consider:

- 45
46 (i) the availability of water for the system;
47
48 (ii) the potential for water conservation in areas served by the system;

2013 JUN 17 PM 2:06

- (iii) the relationship of the system to adopted local or county land use and utility goals;
- (iv) the proper disposal of wastewater from areas served by the system; and
- (v) the conformance of the system to federal and state regulations.

17.4.3b County Encourages Use

In general, the County shall encourage the use of such systems, and shall approve them unless the indicated reviews demonstrate that such systems, or the expansion thereof, will substantially conflict with the policies and goals of the County Comprehensive Plan and this Ordinance.

17.4.4 Approval of Lincoln County Board of Commissioners Required Prior to Transfer

Approval of the Lincoln County Board of Commissioners is required prior to any transfer of a community water system to any homeowner's association or successor of the developer. Additionally, the Lincoln County Board of Commissioners shall insure that the community water system is in compliance with all applicable federal and state rules prior to authorizing transfer to any homeowner's association or successor.

Section 17.5 Water Quality Requirements

17.5.1 Water Quality Documentation

For a subdivider to document conformance with the water quality requirements of this Ordinance and the New Mexico Subdivision Act, a water quality documentation package shall accompany the preliminary plat submittal.

17.5.1a Contents of Package

The water quality documentation package shall:

- (i) state the subdivider's name and mailing address;
- (ii) state the date the package was completed;
- (iii) state the subdivider's proposal for meeting the water quality requirements of this Ordinance;
- (iv) be accompanied by a copy of the subdivider's disclosure statement on water quality;
- (v) be accompanied by the information listed in Sections b, c, or d of this Section as applicable to the water supply proposal; and
- (vi) be accompanied by other relevant information as may be necessary for the determination of compliance with the water quality requirements of this Ordinance.

17.5.1b Contents When New Community System

If a new community water system is proposed, the following information shall be submitted as part of the water quality documentation package:

- (i) a water quality analysis of a representative water sample for antimony, arsenic, alkalinity, aluminum, barium, beryllium, cadmium, chromium, cyanide, calcium, chloride, color, copper, fluoride, foaming agents, hardness, iron, lead, mercury, manganese, nickel, nitrate, nitrite,

2013 JUN 17 PM 2:07

radionuclide, odor, pH, selenium, silver, sodium, sulfate, thallium, total dissolved solids, turbidity, and zinc;
 (ii) for areas where contamination of the proposed source of water has been documented, a water quality analysis of a representative water sample for other water quality parameters listed in Section 17.5.2 may be required;
 (iii) the location and description of the source of water sampled for the water quality analysis;
 (iv) an engineer's report and preliminary engineering plans for the proposed community water system; and,
 (v) maps identifying and showing the location of all potential sources of contamination and the flood plain of all watercourses and surface bodies of water within one (1) mile of the proposed community water system source.

17.5.1c Contents When Existing Community System

If a connection to or extension of an existing community water system is proposed, the following information shall be submitted as part of the water quality documentation package:

- (i) a water quality analysis of a representative water sample for those contaminants identified in Tables 17.5.2 (a) and (b);
- (ii) a statement of availability of water service signed by an official of the existing community water system; and
- (iii) an engineer's report and preliminary engineering plans for the proposed water system.

17.5.1d Documentation of Approval from New Mexico Environment Department

Documentation of approval from the New Mexico Environment Department for the construction or modification of a community water system will be required before final subdivision plat approval.

17.5.2 Water Quality Specifications

Conformance with the water quality specifications of this Section is required for preliminary plat approval.

17.5.2a Level of Contaminant Shall Not Exceed MCL

The level of a contaminant in water delivered to any user of a community water system or cluster, shared or individual well shall not exceed the maximum contaminant level (MCL) for any of the contaminants listed in Table T-17.5.2(a) below:

Table T-17.5.2(a)

Inorganic		Mi-	
Contaminant		Contaminant	MCL
Antimony	0.006 mg/l	Giardia lamblia ^(d)	TT ^(e)
Arsenic	0.05 mg/l	Legionella ^(d)	TT ^(e)
Asbestos	7 MEL ⁽ⁿ⁾	Standard plate count ^(d)	TT ^(e)
Barium	2 mg/l	Total coliforms	Absent
Beryllium	0.004 mg/l	Turbidity ^(d)	PS ^(f)
Cadmium	0.005 mg/l	Viruses ^(d)	TT ^(e)
Chromium (total)	0.1 mg/l	Disinfection	
Copper	1.3 mg/l	Total trihalomethanes	0.10 mg/l
Cyanide	0.2 mg/l	Volatile Or-	
Fluoride	4.0 mg/l	Benzene	0.005 mg/l
Lead	0.015 mg/l	Carbon tetrachloride	0.005 mg/l

Mercury (inorganic)	0.002 mg/l	Dibromochloropropane	0.0002 mg/l
Nickel	0.1 mg/l	o-dichlorobenzene	0.6 mg/l
Nitrate (as N)	10 mg/l	p-dichlorobenzene	0.075 mg/l
Nitrite (as N)	1 mg/l	1,2-dichloroethane	0.005 mg/l
Nitrate+Nitrite (both as N)	10 mg/l	1,1-dichloroethylene	0.007 mg/l
Selenium	0.05 mg/l	cis-1,2-dichloroethylene	0.07 mg/l
Thallium	0.002 mg/l	trans- 1,2-dichloroethylene	0.1 mg/l
		Dichloromethane	0.005 mg/l
Gross alpha particle activity ^(b)	15 pCi/l	1,2-dichloropropane	0.005 mg/l
Radium-226 & 228 ^(c)	5 pCi/l	Ethylbenzene	0.7 mg/l
Strontium-90	8 pCi/l	Ethylene dibromide	0.00005 mg/l
Tritium	20000 pCi/l	Monochlorobenzene	0.1 mg/l
Synthetic Organic		Styrene	0.1 mg/l
Alachlor	0.002 mg/l	Tetrachloroethylene	0.005 mg/l
Atrazine	0.003 mg/l	Toluene	1 mg/l
Benzo[a]pyrene	0.0002 mg/l	1,2,4-trichlorobenzene	0.07 mg/l
Carbofuran	0.04 mg/l	1,1,1-trichloroethane	0.2 mg/l
Chlorodane	0.002 mg/l	1,1,2-trichloromethane	0.005 mg/l
2,4-D	0.07 mg/l	trichloroethylene	0.005 mg/l
Dalapon	0.2 mg/l	Vinyl chloride	0.002 mg/l
Di(2-ethylhexyl)adipate	0.4 mg/l	Zylenes (total)	10 mg/l
di(2-ethylhexyl)phthalate	0.006 mg/l	Synthetic Organic (SOC)	
Dinoseb.	0.007 mg/l	Methoxychlor	0.04 mg/l
Diquat	0.02 mg/l	Oxamyl (Vydate)	0.2 mg/l
Endothall	0.1 mg/l	Pentachlorophenol	0.001 mg/l
Endrin	0.002 mg/l	Picloram	0.5 mg/l
Glyphosate	0.7 mg/l	Polychlorinated biphenyls	0.0005 mg/l
Heptachlor	0.0004 mg/l	Simazine	0.004 mg/l
Heptachlor epoxide	0.0002 mg/l	2,3,7,8-TCCD (Dioxin)	3x10 ³ mg/l
Hexachlorobenzene	0.05 mg/l	Toxaphene	0.003 mg/l
Hexachlorocyclopentadiene	0.001 mg/l	2,4,5-TP	0.05 mg/l
Lindane	0.0002 mg/l		

- Notes: (a) Million fibers longer than 10 micrometers per liter.
 (b) Gross alpha particle activity including radium-226 but excluding radon and uranium.
 (c) Combined radium-226 and radium-228
 (d) For systems using surface water.
 (e) Treatment Technique (filtration and disinfection) required.
 (f) Performance Standard 0.5 NTU to 1.0 NTU

17.5.2b Level of Contaminant Shall Not Exceed SMCL

The level of a contaminant in water delivered to any user of a community water system should not exceed the secondary maximum contaminant level (SMCL) for any of the contaminants listed in Table T-17.5.2(b) If the level for any of the contaminants listed in Table T-17.5.2(b) exceeds the SMCL, the subdivider must state in the disclosure statement on water quality the name of the contaminant exceeded; the contaminant level; the SMCL of the contaminant; the expected adverse effects of the contaminant for domestic water use; and, the recommended treatment method to reduce the contaminant level to or below the SMCL.

2013 JUL 17 PM 2:07

Table T-17.5.2(b)
Secondary (Esthetic Related) Contaminants

Contaminant	SMCL	Contaminant	SMCL
Aluminum	.05 - 0.2 mg/l	Manganese	.05 mg/l
Chloride	250 mg/l	Odor	3 TON
Color	15 CU	pH	6.5 - 8.5
Copper	1.0 mg/l	Silver	0.1 mg/l
Corrosivity	non-corrosive	Sodium	100 mg/l*
Fluoride	2.0 mg/l	Sulfate	250 mg/l
Foaming Agents	0.5 mg/l	TDS	500 mg/l
Hardness	250 mg/l	Turbidity	5 NTU
Iron	0.3 mg/l	Zinc	5 Mgl

* Sodium concentration exceeding 20 mg/l must be noted in the disclosure statement.

17.5.2c Setback Distances

A water supply source shall not be located at less than the setback distances shown in Table T-17.5.2(c).

Table T-17.5.2(c).
Setback Distances for Water Supply Sources for Community Water Systems

Potential Source of Contamination	Required Minimum Setback Distance (feet)
Water Tight Sewer	50
Other Sewers	100
Community Liquid Waste Treatment System (e.g. aeration tank, chlorination facility)	300
Individual Liquid Waste Treatment System (e.g. septic tank)	100
Community Liquid Waste Disposal System (e.g. outfall, leach field)	600
Individual Liquid Waste Disposal System (e.g. leach field)	200
Flood Plain	outside
Contamination Sources such as landfills, stockyards and feedlots	100

2013 JUL 17 PM 2:07

1 **17.5.2d Disclosure Statement**

2
3 The disclosure statement for the subdivision shall contain a statement containing the results of the on-site
4 water quality test and describing the quality of water available for domestic use within the subdivision.
5

6 **Section 17.6 Well Construction**

7
8 All community wells will be constructed according to NMED and OSE Requirements
9

10 **Section 17.7 Wells**

11
12 The well construction for any well intended to serve as a supply well other than an individual domestic well
13 or solely for monitoring purposes shall be at or above industry standards, incorporating appropriate casing,
14 gravel pack, and well seal application. The well screen shall be of a sufficient length to allow the ground
15 water to efficiently enter the well and to assure the best possible sustainable production. Wells must be
16 properly developed as soon as practical after completion of testing.
17

18 Any well not intended for use should be capped and secured to eliminate any possible contamination
19 concerns, this also applies to existing wells that will not be used for production purposes. Any existing
20 wells that are intended for any use other than an individual domestic well should also be inspected for
21 adequate construction and protected from any possible contamination.
22

23 **ARTICLE 18 Water Conservation and Fire Protection**

24
25 **Section 18.1 General Requirements**

26
27 A water conservation report shall be submitted with a subdivision preliminary plat application or at the time
28 of initial application for other types of development. The report shall contain a water budget for the
29 proposed development, indicating the type and amount of water withdrawals and consumption projected
30 at full development; and it shall contain a list of any water conservation measures which are adopted by
31 covenant or other similar means which are intended to restrict water use to specified levels. Only water
32 conservation measures that have been adopted in a form which, in the opinion of the County Attorney, is
33 legally binding upon any person using water on the parcel shall be deemed to meet the requirements of the
34 Ordinance.
35

36 **Section 18.2 Water Budgets and Conservation Covenants**

37
38 All residential and non-residential developments must provide a detailed demand analysis. In all cases
39 where the subject of water use is part of an application for development, the applicant shall submit a water
40 budget, which shall be a listing of all activities within the development which will utilize water, and the
41 amount of water so used. The County Planner shall maintain a file of representative water budgets. The
42 applicant shall be required to adopt covenants or to take other measures necessary to ensure, with
43 reasonable prospects of success, that the estimated water budget will be achieved. The Planning
44 Commission may deny an application if, after review of the budgets or covenants proposed, the Planning
45 Commission determines that the budgets and covenants will not reduce usage of water to the extent
46 proposed. At a minimum, the following water conservation measures shall apply to all developments:
47

48 **18.2a Water Saving Fixtures**

49
50 Water saving fixtures shall be installed in all new construction. Water saving fixtures shall include, but not
51 be limited to, low flush toilets, low flow fixtures, and insulation of hot water pipes. Toilets shall use no
52 more than 1.6 gallons per flush; shower head flows shall not exceed 2.5 gallons per minute; and faucet flow

2013 JUL 17 PM 2:07

1 shall not exceed 2.5 gallons per minute.

2
3 **18.2b Evaporative coolers**

4
5 Evaporative coolers must circulate bleed-off water.

6
7 **18.2c Dishwashers**

8
9 Dishwashers shall use no more than 13 gallons in a regular cycle and shall have a cycle adjustment which
10 allows reduced water to be used for reduced loads.

11
12 **18.2d Washing Machines**

13
14 Washing machines shall use no more than 43 gallons in the regular cycle and shall have cycle or water level
15 adjustments which permit reduced amounts of water to be used for reduced loads.

16
17 **18.2e Low Water Use Landscaping**

18
19 Low water use landscaping techniques applying the principles of xeriscaping shall be utilized. Drip
20 irrigation is encouraged whenever possible. Low water use grasses, shrubs, trees and native plants may be
21 watered as needed during the first and second years of their growth to become established. Thereafter, such
22 vegetation shall receive only minimal water as needed by each species. Lawns of non-native grasses shall
23 not exceed 800 square feet per parcel and shall only be watered with rain water collected by means
24 confined to the property or with recycled household gray water. Gray water systems shall meet the
25 requirements of the New Mexico Construction Industries Division and the Uniform Plumbing Code.

26
27 **18.2f Community Water System Service Connections**

28
29 All community water system service connections shall be metered.

30
31 **18.2g Water Restriction Covenants**

32
33 The water restriction covenants shall run with the land and bind all successors in interest.

34
35 **Section 18.3 Water Distribution Mains**

36
37 All water distribution mains shall be pressure tested by the applicant in accordance with New Mexico
38 Standard Specifications for Public Work Construction, Section 801.16.

39
40 **Section 18.4 Water Pressure Reducing Valve**

41
42 Where water pressure at the customer service connection exceeds 80 pounds per square inch (psi), a
43 pressure reducing valve shall be installed by the applicant on the service connection.

44
45 **Section 18.5 Fire Protection Plan and Required Improvements**

46
47 The applicant shall provide a fire protection plan and shall provide the water, land, and storage facilities
48 necessary to construct the elements of such plan, all of which shall be in compliance with this Ordinance,
49 the Uniform Fire Code, the Uniform Fire Code Standards, and applicable National Fire Protection
50 Association (NFPA) codes. The plan shall be designed to provide adequate fire flow and fire protection
51 for the safety of the residents or occupants of the proposed development. The plan shall include at least the
52 following elements:
53

2013 JUL 17 PM 2: 07

- 1 18.5.1 Storage capacity of the proposed water system;
- 2
- 3 18.5.2 Fire flow for the proposed water system in gallons per minute;
- 4
- 5 18.5.3 The facilities the applicant intends to use to provide fire protection to the development. If the
- 6 applicant proposes to use an existing facility or fire district, the plan must include a letter from
- 7 the Lincoln County Fire Marshall approving or disapproving the plan. The plan shall describe how
- 8 the proposed development will affect the existing fire system or district and shall detail the
- 9 assistance the applicant intends to provide to the existing facility or fire district in order to assure
- 10 adequate fire protection for the proposed development;
- 11
- 12 18.5.4 Insurance Services Office protection rating for the proposed development;
- 13
- 14 18.5.5 The engineering design plans for the fire protection system shall have approval signatures
- 15 of the water utility company authority serving the project and the County Fire Marshal;
- 16
- 17 18.5.6 Any water line extensions installed to service the development shall have a fire hydrant at the
- 18 point of connection if none exists, and one every 1000 feet thereafter. The applicant is responsible
- 19 for the installation of these fire hydrants. Additionally, all such systems shall contain a dead pipe
- 20 for fire engine fills;
- 21
- 22 18.5.7 Residential subdivision fire hydrants shall be designed to flow at least 500 gallons per minute
- 23 with 20 pound per square inch residual pressure. Fire hydrants which shall serve commercial
- 24 developments shall be designed to flow at least 1000 gallons per minute with 20 pound per square
- 25 inch residual pressure;
- 26
- 27 18.5.8 All fire hydrants shall be spaced so that the furthest buildable portion of a parcel shall be
- 28 within one thousand feet (1,000') as measured along the access route;
- 29
- 30 18.5.9 All fire hydrants shall be tested and approved by the County Fire Marshal prior to the
- 31 granting of any building permits;
- 32
- 33 18.5.10 To accommodate fire apparatus, all dead end roads longer than 250 feet shall have a cul-de-sac
- 34 with a minimum driving surface radius of 50 feet;
- 35
- 36 18.5.11 The applicant shall install fire hydrants, storage tanks and fire protection infrastructure as
- 37 provided in the approved fire protection plan.
- 38

ARTICLE 19 LIQUID WASTE MANAGEMENT PLAN

Section 19.1 Liquid Waste Management Plan

Any person seeking approval of a subdivision plat must submit a liquid waste management plan to the Commission for either a community or individual liquid waste (sewer) system.

Section 19.2 Livestock Waste

The waste from any concentration of livestock exceeding five (5) animals located on a single tract or in a common area, within a subdivision shall require Environment Department approval of its proposed waste disposal plan.

Section 19.3. Requirements for Community Liquid Waste System

LINCOLN COUNTY-NM
JONIA B BURROS, CLERK
201304825
Book2013 Page 4825
79 of 115

2013 JUL 17 PM 2:37

- 1 A. Design and complete construction of the community system, by the time required in the
2 approved plan, in compliance with all applicable Water Quality Control Commission
3 Regulations in effect at the time of final plat approval.
- 4
- 5 B. Connection to the community system for the occupants within the subdivision in
6 accordance with the requirements of the approved plan.
- 7
- 8 C. Provisions for the operation, maintenance and expansion of the community system to meet
9 the growth in population of the subdivision in a manner consistent with the approved plan
10 and consistent with all applicable Water Quality Control Commission Regulations in effect
11 at the time of final plat approval.
- 12
- 13 D. If a subdivider must provide for a community liquid waste treatment system and does not
14 qualify for the temporary use of individual liquid waste disposal systems under Subsection
15 19.4, he must meet the requirements stated above by the time of first occupancy within the
16 subdivision. Approval of the Lincoln County Board of Commissioners is required prior
17 to any transfer of a community liquid waste system to any homeowner's association or
18 successor of the developer. Additionally, the Lincoln County Board of Commissioners
19 shall insure that the community liquid waste system is in compliance with all applicable
20 federal and state rules prior to authorizing transfer to any home owner's association or
21 successor.
- 22

23 **Section 19.4 Information Requirements for Community Liquid Waste System**

- 24
- 25 A. A legal description of the location of all construction easements and rights-of-way
26 necessary for the installation and maintenance of the community liquid waste treatment
27 system.
- 28
- 29 B. Plans and specifications, prepared by a professional engineer registered in New Mexico,
30 for the construction of the system, in accordance with applicable minimum design
31 standards of the New Mexico Environment Department and the Construction Industries
32 Division, Developments shall obtain all applicable state and federal environmental
33 permits for the discharge of domestic wastewater. Applications for NMED Liquid Waste
34 Permits, NMED ground water discharge permits and for permits issued by the Environ-
35 mental Protection Agency (EPA) through the National Pollutant Discharge Elimination
36 Systems (NPDES) program shall be submitted to the Planning Department and the
37 Planning Commission prior to approval of the preliminary plat.
- 38
- 39 C. The time when the community system is to be completed.
- 40
- 41 D. If the proposal is to connect to an existing community liquid waste system, plans and
42 specifications for the liquid waste collection system within the subdivision and the
43 connecting system, and a description of the existing system.
- 44
- 45 E. The projected population of the subdivision based upon four (4) persons per household.
- 46
- 47 F. A subdivision improvements agreement which guarantees:
48
 - 49 1. the construction and operation of any liquid waste treatment system required as
50 shown in the final plat documents and plans;
 - 51
 - 52 2. collateral in the form of a performance bond or other means to adequately assure
53 the complete construction and operation of the system in accordance with design

2013 JUL 17 PM 2:07

1 and time specifications;

2
3 3. certification of the operator of the system;

4
5 4. involvement as prescribed in the final plat documents of a Homeowners
6 Association or Community Association.
7

8 **Section 19.5 Requirements for Individual Liquid Waste Disposal Systems**

9
10 Individual Liquid Waste Disposal systems and privies may not be approved by the Planning Commission
11 for use within a subdivision:
12

- 13 A. unless they are to be located so as not to potentially contaminate or pollute any drinking
14 water supply, water course, or body of water;
- 15
16 B. unless they are to be located so as not to potentially degrade any recreational resources;
- 17
18 C. if they will create a nuisance;
- 19
20 D. if they are to be located in areas where there is evidence that similar individual systems
21 have caused significant ground-water contamination or high nutrient levels in any body
22 of water;
- 23
24 E. if they are to be located in areas where there is evidence that they will cause hazards to
25 health or to the environment;
- 26
27 F. unless the distance between a well and an absorption field or a tank used as part of an
28 individual liquid waste disposal system must be no less than one hundred feet (100');
- 29
30 G. the distance between a well or body of water used as a public water supply and an
31 absorption field or tank used as part of an individual liquid waste disposal system must be
32 no less than two hundred feet (200');
- 33
34 H. the distance between an absorption field or tank used as a part of an individual liquid waste
35 disposal system and the nearest boundary of a floodway must be no less than one hundred
36 feet (100');
- 37
38 I. privies may not be approved by the Planning Commission for use within a subdivision
39 unless the subdivider demonstrates to the satisfaction of the Planning Commission, in
40 consultation with the New Mexico Environment Department, that they will be located and
41 operated in a manner which will not potentially contaminate any drinking water supply,
42 potentially pollute any body of water, create a nuisance, or cause a potential danger to
43 public health;
- 44
45 J. if an existing community liquid waste system is available for use within the subdivision.
46

47 **Section 19.6 Soil Limitations for Individual Liquid Waste Disposal Systems**

48
49 Individual liquid waste disposal systems may not be approved for use within a subdivision characterized
50 by severe limitations, as described in Table A. In addition, individual liquid disposal systems shall not be
51 approved for use within a subdivision where a percolation rate of less than six (6) minutes per inch and
52 seasonal high water table of less than twenty feet (20') exist together.
53

2013 JUL 17 PM 2:07

1 Because of shallow water levels, bedrock, geological faults, and sloping terrain, an advanced treatment
 2 system will be required for any proposed construction which is:

- 3
 4 A. 100 feet or less to any ground water source;
 5
 6 B. for any parcel equal to or less than 2 acres; or
 7
 8 C. located within a flood plain.
 9

10 **Section 19.7 Minimum Lot Size for Individual Liquid Waste Disposal Systems**

11
 12 Individual liquid waste disposal systems may not be approved by the Planning Commission for use within
 13 a subdivision unless the parcels on which they will be used conform to the minimum lot sizes required in
 14 Table T-19.8(B).
 15

16 **Section 19.8 Submittals Required for Individual Liquid Waste Disposal Systems**

- 17
 18 A. A copy of the subdivider's Disclosure Statement relating to liquid waste disposal.
 19
 20 B. The location of all proposed and existing wells, sewage absorption areas, community
 21 sewage systems, and community water supply systems within the proposed subdivision
 22 and within three hundred feet (300') of the proposed subdivision boundary.
 23
 24 C. The location of all arroyos, drainage areas and bodies of water within the proposed
 25 subdivision and within three hundred feet (300') of the proposed subdivision boundary.
 26
 27 D. The soil depth throughout the area of the proposed subdivision.
 28
 29 E. Soil classification, or percolation tests, or both.
 30
 31 F. The depth to seasonal high water table.
 32
 33 G. The slope of the ground within the proposed subdivision.
 34
 35 H. The flood frequency of areas within the proposed subdivision.
 36
 37 I. A detailed description of the kind of individual liquid waste disposal system that is to be
 38 used by the occupants of the subdivision.
 39
 40 J. The projected population of the subdivision based upon four (4) persons per household.
 41
 42

43 **TABLE T-19.8(A.1)**

SOIL CATEGORY FOR INDIVIDUAL LIQUID WASTE SYSTEMS			
	Soil Category (a)		
Soil Characteristic	Suitable(b)	Limiting(c)	Prohibitive(d)
Percolation Rate (minutes per inch)	5 - 60	Less than 5 or 61 - 120	More than 120
Slope (percent)	0 - 8	9 - 15	More than 15

Soil Depth to Seasonal High Ground Water Table or Bedrock or Other Limiting Soil Layer (feet)	8 or more	4 - 8	2013 JUL 17 PM 2:07	Less than 4
Flood Plain	Outside	Outside		Within

Notes Table T-19.8(A.1):

- (a) A soil category is determined by the most limiting soil characteristic.
- (b) A suitable soil is a soil suited for the installation and functioning of a conventional disposal system. Conventional disposal systems or alternative disposal systems may be used in suitable soils.
- (c) A limiting soil is a soil unsuited for the installation and functioning of a conventional disposal system. Alternative disposal systems are used in the limiting soils.
- (d) A prohibitive soil is a soil unsuited for the installation and functioning of either a conventional disposal system or an alternative disposal system. Individual liquid waste systems cannot be used in prohibitive soils.

TABLE T-19.8(A.2)

SETBACK DISTANCES FOR INDIVIDUAL LIQUID WASTE SYSTEMS		
	Required Minimum Setback Distance (feet)	
<i>Object</i>	<i>Treatment Unit</i>	<i>Disposal System</i>
Individual Water Supply System Source	50	100
Public Water Supply System Source	100	200
Edge of Watercourses Except Canals and Arroyos	50	100
Edge of Unlined Canals and Arroyos	15 + depth of channel	25 + depth of channel
Edge of Lined Canals	10 + depth of channel	10 + depth of channel
Public Lakes	50(a)	100(a)

Note to Table T-19.8(A.2):

- (a) Setback distance to artificially controlled lakes and reservoirs is measured from the closest projected shoreline at the maximum controlled water level.

TABLE T-19.8(B)

Combination Water and Sewer Systems

COMBINATIONS OF WATER AND SEWER SYSTEMS	MINIMUM SIZES FOR HOMESITES (ACRES)			
SOIL CHARACTERISTICS	A	B	C	D
	Slight Limitations	Slight Limitations	Moderate Limitations	Severe Limitations

Community Water	1 Acre	1 Acre	2013 JUL 17 1 Acre	No Onsite Sewage Disposal Into Soil
Onsite Sewage Disposal				
Onsite Water	1 Acres	1 Acre	1.25 Acre	No Onsite Sewage Disposal Into Soil
Onsite Sewage Disposal				

Notes to Table T-19.8(B):

- (a) The minimum lot size required for the location of an individual liquid waste disposal system is determined by the most limiting soil group under which any soil characteristic falls.
- (b) Any lot that is less than two (2) acres in size shall require an advanced wastewater treatment system.

ARTICLE 20 CHANGES OR AMENDMENTS

The regulations or any portion thereof may be amended or repealed by the Lincoln County Board of Commissioners in the manner prescribed by law.

ARTICLE 21 SEVERABILITY

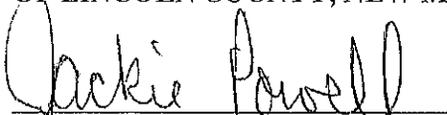
If any part or application of this Ordinance is held invalid, the remainder or its application to other situations or persons shall not be affected.

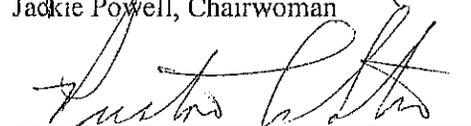
ARTICLE 22 REPEAL AND EFFECTIVE DATE

This Ordinance amends, repeals, and re-enacts the Lincoln County, New Mexico, Subdivision Ordinance 2008-01. This Ordinance shall become effective thirty days after its filing with the county clerk and the State records administrator, pursuant to NMSA 1978, §47-6-10(k).

THIS ORDINANCE was adopted in a regular session of the Board of County Commissioners of Lincoln County, New Mexico, on this 16th day of July, 2013

**BOARD OF COUNTY COMMISSIONERS
OF LINCOLN COUNTY, NEW MEXICO**


Jackie Powell, Chairwoman


Preston Stone, Vice Chair

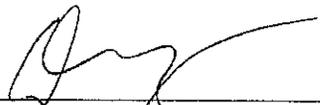

Mark Doth, Member

LINCOLN COUNTY-NM
HINDA B HURDOW, CLERK
201304825
Book2013 Page 4825
84 of 115
07/17/2013 09:00:00 AM

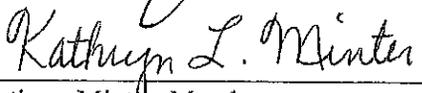
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

2013 JUL 17 PM 2:07

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

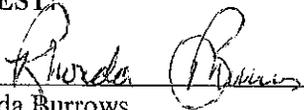


Dallas Draper, Member

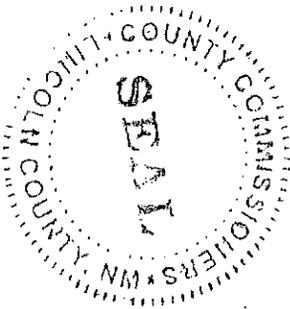


Kathryn Minter, Member

ATTEST:



Rhonda Burrows
Lincoln County Clerk



2013 JUL 17 PM 2:07

APPENDIX

LINCOLN COUNTY, NEW MEXICO

SUBDIVISION ORDINANCE 2013-2

FORMS:

- A. Application for Preliminary Plat Approval**
- B. Application for Final Plat Approval**
- C. Application for Summary Review Plat Approval**
- D. Application for a Variance**
- E. Notice of Appeal**
- F. Claim of Exemption**
- G. Disclosure Statement (fewer than five (5) parcels)**
- H. Disclosure Statement (six (6) or more parcels)**

2013 JUL 17 PM 2:07

**COUNTY SUBDIVISION ORDINANCE
APPLICATION FOR PRELIMINARY PLAT APPROVAL**

INSTRUCTIONS

Print or type clearly. Use additional sheets if necessary. All required attachments and support documentation shall be submitted with this application form. Incomplete or inaccurate applications may delay public hearing or decision dates. The completed application package must be submitted to the Board of County Commissioners of Lincoln County by the subdivider or a designated agent and shall be in compliance with the requirements of the Lincoln County, New Mexico, Subdivision Regulations. Each application must be accompanied by the required administrative fee.

APPLICANT INFORMATION

1. Subdivider Name, Address, and Phone Number _____

Signature _____ Date _____

2. Agent (if any) Name, Address, and Phone Number _____

Signature _____ Date _____

3. Engineer/Surveyor Name, Address, and Phone Number _____

Signature _____ Date _____

SUBDIVISION INFORMATION

4. Name of Subdivision _____
(Indicate if this is a succeeding subdivision, phased subdivision, or resubdivision)

5. This is a Type One ___ Two ___ Three ___ Four ___ Subdivisions (check one)

6. Number of lots: ___ Total acreage: _____ Acres ___ Size of smallest lot: _____ Acres

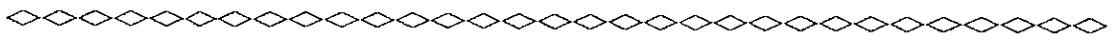
2013 JUL 17 PM 2: 07

7. Municipal planning and platting jurisdiction (if applicable): _____

8. County Zoning Classification: _____

SUPPLEMENTAL INFORMATION

- 9. If this is a succeeding subdivision, provide detailed attachments indicating the relationship between the proposed subdivisions and the previous subdivision.
- 10. If this is part of a phased subdivision, attach a master plan of all phases indicating the current proposed phase and an anticipated phasing schedule.
- 11. If this is a resubdivision, provide a reference to the original plat with an explanation of the proposed changes.
- 12. Supporting documentation required for the preliminary plat review as defined by the County Subdivision Regulations shall be attached to this application.
- 13. The required number of copies of the preliminary plat map as specified by the County Subdivision Regulations shall be attached to this application.
- 14. A draft copy of the disclosure statement shall be attached to this application and shall be in accordance with the standardized format provided in the County Subdivision Regulations.



PROCEDURAL INFORMATION (to be completed by County Staff)

- 15. Date application received by County _____ Signed _____
- 16. Date preliminary plat deemed complete _____ Signed _____
- 17. Date of public hearing _____
- 18. Date of preliminary plat approval by County _____

LINCOLN COUNTY-NM
RHONDA B HURROWS, CLERK
201304825
Book2013 Page 4825
88 of 115
07/17/2013 09:00:00 AM

COUNTY SUBDIVISION ORDINANCE
APPLICATION FOR FINAL PLAT APPROVAL

2013 JUL 17 PM 2:07

INSTRUCTIONS

Print or type clearly. Use additional sheets if necessary. All required attachments shall be submitted with this application form. Incomplete or inaccurate applications may delay decision dates. The completed application package must be submitted to the Board of County Commissioners of Lincoln County by the subdivider or a designated agent and shall be in compliance with the requirements of the Lincoln County, New Mexico, Subdivision Regulations. Each application must be accompanied by the required administrative fee.

GENERAL INFORMATION

- 1. Name of Subdivision _____
- 2. This is a Type _____ Subdivision Number of Lots: _____ Total acreage: _____ Acres
- 3. Subdivider or Agent Name, Address, and Phone Number _____

Signature _____ Date _____

- 4. Engineer/Surveyor Name, Address and Phone Number _____

Signature _____ Date _____

SUPPLEMENTAL INFORMATION

- 5. Have any changes to the proposed subdivision been made since the preliminary plat was approved? _____ If so, attach a detailed explanation of such changes.
- 6. Have the required improvements been completed? _____ If not, attach improvement agreement to ensure completion of required improvements.
- 7. All affidavits, certificates, permits, and statements required for final plat review as defined by the County Subdivision Regulations shall be attached to this application.

B1

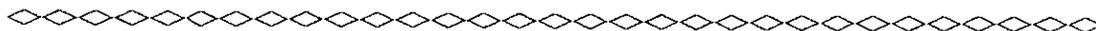
LINCOLN COUNTY-NM
RINDA B HURRO, CLERK
201304825
Book 2013 Page 4825
89 of 115

07/17/2013 09:00:00 AM

2013 JUL 17 PM 2:07

8. The original drawing and required number of copies of the final plat map shall be attached to this application.

9. The final disclosure statement shall be attached to this application.



PROCEDURAL INFORMATION (To be completed by County staff)

10. Date of preliminary plat approval _____ Expiration Date _____

11. Extension dates (if any, with explanation) _____

12. Date application received by County _____ Signed _____

13. Date final plat deemed complete _____ Signed _____

14. Date of final plat approval by County _____

15. Date final plat is filed with County Clerk _____

LINCOLN COUNTY-NM
HINDA B BURROWS, CLERK
201304825
Book 2013 Page 4825
90 of 115
07/17/2013 09:00:00 AM

COUNTY SUBDIVISION ORDINANCE 2013 JUL 17 PM 2:07
APPLICATION FOR SUMMARY REVIEW PLAT APPROVAL

INSTRUCTIONS

Print or type clearly. Use additional sheets if necessary. All required attachments shall be submitted with this application form. Incomplete or inaccurate applications may delay decision dates. The completed application package must be submitted to the Board of County Commissioners of Lincoln County by the subdivider or a designated agent and shall be in compliance with the requirements of the Lincoln County, New Mexico, Subdivision Regulations. Each application must be accompanied by the required administrative fee.

APPLICANT INFORMATION

1. Subdivider Name, Address, and Phone Number _____

Signature _____ Date _____

2. Engineer/Surveyor Name, Address, and Phone Number _____

Signature _____ Date _____

SUBDIVISION INFORMATION

3. Location of Subdivision (attach map if necessary) _____

4. This is a Type Three ___ Five ___ Subdivision (check one)

5. Number of lots: _____ Total acreage: _____ Acres Size of smallest lot: _____
Acres

6. Municipal planning and platting jurisdiction (if applicable): _____

7. County Zoning Classification: _____

LINCOLN COUNTY-NM
KYNDA B BURROWS, CLERK
201304825
Book 2013 Page 4825
91 of 115
07/17/2013 09:00:00 AM

2013 JUL 17 PM 2:07

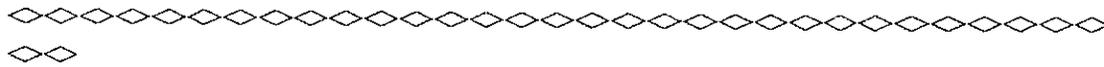
SUPPLEMENTAL INFORMATION

8. If it is determined by the County to be necessary, attach an improvement agreement to ensure completion of required improvements.

9. All affidavits, certificates, permits, and statements required for summary review plats as defined by the County Subdivision Regulations shall be attached to this application.

10. The original drawing and required number of copies of the summary review plat map shall be attached to this application.

11. The final disclosure statement shall be attached to this application.



PROCEDURAL INFORMATION (To be completed by County Staff)

12. Date of pre-application conference _____ Signed _____

13. Date application received by County _____ Signed _____

14. Date summary review plat deemed complete _____ Signed _____

15. Date summary review plat approved by County _____

16. Date summary review plat filed with County Clerk _____

LINCOLN COUNTY-NM
HENDRA B HURFORS, CLERK
201304825
Book2013 Page 4825
92 of 115
07/17/2013 09:00:00 AM

COUNTY SUBDIVISION ORDINANCE
NOTICE OF APPEAL

2013 JUL 17 PM 2:07

INSTRUCTIONS

Print or type clearly. Use additional sheets if necessary. All required attachments shall be submitted with this form. Incomplete or inaccurate information may delay public hearing or decision dates. This form may be used by any person who is adversely affected by a decision regarding the approval or disapproval of a subdivision within the County's jurisdiction, and shall be in compliance with the requirements of the Lincoln County, New Mexico, Subdivision Regulations. This form must be accompanied by the required administrative fee.

APPELLANT INFORMATION

1. Name, Address, and Phone Number _____

Signature _____ Date _____

2. Agent (if any) Name, Address, and Phone Number _____

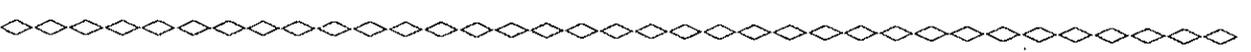
Signature _____ Date _____

NATURE OF APPEAL

3. Reason for Appeal (reference to specific decision being appealed) _____

4. Ruling Authority for this appeal _____

Attach a copy of the decision or order being appealed.



PROCEDURAL INFORMATION (to be completed by County Staff)

5. Date of action being appealed _____

6. Date Notice of Appeal received by County _____ Signed _____

7. Date of decision regarding appeal by Board of County Commissioners _____

E1

2013 JUL 17 PM 2:08

**PLEASE READ THIS
DISCLOSURE STATEMENT
BEFORE YOU SIGN
ANY DOCUMENTS OR
AGREE TO ANYTHING**

DISCLOSURE STATEMENT

FOR ALL SUBDIVISIONS CONTAINING SIX OR MORE PARCELS

This Disclosure Statement is intended to provide you with enough information to permit you to make an informed decision on the purchase or lease of property described in this statement. You should read carefully all of the information contained in this statement before you decide to buy or lease the described property. You should be aware of the fact that various state agencies may have issued opinions on both the subdivision proposal and what is said in this disclosure statement about the proposal. These opinions, when required to be issued, whether favorable or unfavorable, are contained in this Disclosure Statement and should also be read carefully.

The Lincoln County Board of Commissioners has examined this disclosure statement to determine whether the subdivider can satisfy what he has said in this Disclosure Statement. However, the Lincoln County Board of Commissioners does not vouch for the accuracy of what is said in this Disclosure Statement. Further, this Disclosure Statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only. This Disclosure Statement may not be amended after its approval by the County of Lincoln without the express written approval of the Board of County Commissioners.

Construction of all infrastructure and other capital improvements are the responsibility of the subdivider/ developer. If the subdivider/developer is unable to complete the construction of roads or other improvements, the County of Lincoln cannot be held responsible for completion of those improvements. Further, the County of Lincoln will not assume maintenance on any road until the road has been constructed to County standards, the road is maintained in good condition for at least two (2) years, and is approved and accepted by the County Commission.

H1

LINCOLN COUNTY-NM

HONDA B HURDS, CLERK

201304825

Book 2013 Page 4825

95 of 115

07/17/2013 09:00:00 AM

*Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement - 6 or more parcels
Form H1-11/Rev.7/16/13*

CLAIM OF EXEMPTION

2013 JUL 17 PM 2: 08

To claim an exemption from the requirements of the Lincoln County, New Mexico, Subdivision Ordinance, you must complete this form, sign it before a notary public and submit it together with legible copies of all required documents to the Board of County Commissioners of Lincoln County. Be sure to check all exemptions which apply and attach legible copies of all supporting documents.

The Board of County Commissioners of Lincoln County will notify you in writing within thirty (30) days as to whether your claim of exemption has been granted. If the claim of exemption is granted, or if you do not hear from the Board of County Commissioners of Lincoln County within thirty (30) days, you may proceed with the land division you propose without needing to comply with the requirements of the Lincoln County, New Mexico, Subdivision Regulations. If your claim of exemption is denied, you may either seek approval of a subdivision or appeal the denial as provided in the Lincoln County, New Mexico, Subdivision Regulations.

☆☆☆☆☆☆☆☆☆☆

I, _____, claim an exemption from the requirements of the New Mexico Subdivision Act and the Lincoln County, New Mexico, Subdivision Regulations for the following reason(s). I certify that this transaction involves:

1. ___ The sale, lease or other conveyance of any parcel that is thirty-five (35) acres or larger in size within any twelve (12) month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with §7-36-20 NMSA 1978, for the preceding three (3) years. **Attach Certified Survey showing size and location of parcel.**
2. ___ The sale or lease of apartments, offices, stores or similar space within a building. **Attach copies of all proposed sale or lease documents.**
3. ___ The division of land within the boundaries of a municipality. **Attach certified survey showing location of proposed division.**
4. ___ The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land. **Attach copies of all proposed conveyancing documents.**
5. ___ The division of land created by court order where the order creates no more than one parcel per part. **Attach certified copy of court order. Also attach certified survey showing size and location of parcel.**
6. ___ The division of land for grazing or farming activities provided that the land continues to be used for grazing or farming activities. **Attach copy of proposed conveyancing documents and documents restricting future use to grazing or farming activities. Such documents must contain a covenant running with the land and revocable**

F1

2013 JUN 17 PM 2:08

only by mutual consent of the Board of County Commissioners and the property owner that the divided land will be used exclusively for grazing or farming activities. The covenant must be signed by the property owner, the buyers or lessee, and the Board of County Commissioners and must be filed and recorded with the County Clerk. Also attach a certified survey showing size and location of parcel.

7. ___ The division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased. **Attach certified surveys showing all parcels and parcel boundaries before and after proposed alteration.**
8. ___ The division of land to create burial plots in a cemetery. **Attach certified survey showing size and location of parcels, and a statement that ensures the property does not lie within a flood zone, based upon the prevailing Federal Emergency Management Agency flood maps.**
9. ___ The division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member. As used herein the term "immediate family member" means a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, stepgrandson, granddaughter, stepgranddaughter, nephew and niece, whether related by birth or adoption. **Attach certified survey showing size and location of original tract and parcel(s) proposed to be divided. Also attach copy of proposed conveyancing document and birth certificate, adoption certificate or other document demonstrating family relationship claimed. Baptismal certificates are *not* acceptable documentation.**
10. ___ The division of land created to provide security for mortgages, liens or deeds of trust; provided that the division is not the result of a seller-financed transaction. **Attach copies of all financing documents. Attach certified survey showing size and location of the parcel that is being divided.**
11. ___ The sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres; **Attach certified survey showing location and size of parcel(s).**
12. ___ The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college or other institution with a defined curriculum and a student body and faculty that conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship, religious teaching or other specifically religious activity. **Attach copies of I.R.S. exemption letter, and/or documents demonstrating entitlement to exemption and certified survey showing land proposed to be donated. Also attach certified survey showing size and location of parcel.**

F1

LINCOLN COUNTY-NM
RONDA B HURROKS, CLERK
201304825
Book 2013 Page 4825
97 of 115

Lincoln County Subdivision Ordinance 2013-2
Claim of Exemption
Form F1-4/Rev. 7/16/13

7:13 JUL 17 2013 2:08

1 13. The division of a tract of land into two parcels that conform with applicable zoning
2 ordinances; provided that a second or subsequent division of either of the two parcels
3 within five years of the date of the division of the original tract of land shall be subject
4 to the provisions of the New Mexico Subdivision Act; provided further that a survey,
5 and a deed if a parcel is subsequently conveyed, shall be filed with the County Clerk
6 indicating that the parcel shall be subject to the provisions of the New Mexico Subdivi-
7 sion Act if the parcel is further divided within five years of the date of the division of
8 the original tract of land. **Attach certified survey showing size and location of**
9 **original tract, parcel proposed to be divided, and parcels previously divided from**
10 **the original parcel and dates of all divisions.**

11
12 **FEE: One Hundred Dollars (\$100.00) for each Claim of Exemption.**

13
14 14. The purchase or donation of land by a governmental entity for the purpose of construc-
15 tion or use of a public project. **Attach a certified survey of the project showing the**
16 **location and size of both tracts.**

17
18
19 I further certify that the information provided by me in this Claim of Exemption is true
20 and correct and that all documents attached to or enclosed with this Claim of Exemption are
21 originals or true, complete and correct copies of the originals.

22 Signature _____

23
24 Print your name here _____

25
26 Address _____

27
28 City, State and Zip code _____

29
30 Telephone number(s) _____

31
32
33
34
35
36 SUBSCRIBED AND SWORN to before me this ____ day of _____,
37 20____.

38
39
40 _____
41 NOTARY PUBLIC

42 My Commission Expires:
43 _____
44
45

LINCOLN COUNTY-NM
RONDA B BURROWS, CLERK
201304825
Book 2013 Page 4825
98 of 115
07/17/2013 09:00:00 AM

F1

2013 JUL 17 PM 2:08

☆☆☆☆☆☆☆☆☆☆

FOR OFFICIAL USE ONLY

___ The foregoing Claim of Exemption has been approved.

___ The foregoing Claim of Exemption is incomplete. Please provide us with the following information and/or documents so that we can process your claim: _____

___ The foregoing Claim of Exemption is hereby denied for the following reasons:

Date: _____

Name and title

FEE PAID: \$ _____

Attach copy of receipt to this application.

LINCOLN COUNTY-NM
RINA B HIGGS, CLERK
201304825
Book 2013 Page 4825
99 of 115
07/17/2013 09:00:00 AM

F1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

2013 JUL 17 PM 2:08

**PLEASE READ THIS
DISCLOSURE STATEMENT
BEFORE YOU SIGN
ANY DOCUMENTS OR
AGREE TO ANYTHING**

DISCLOSURE STATEMENT

FOR ALL SUBDIVISIONS CONTAINING NO MORE THAN FIVE PARCELS

This disclosure statement is intended to provide you with enough information to make an informed decision on the purchase, lease or acquisition of the property described in this statement. You should read carefully all of the information contained in this disclosure statement before you decide to buy, lease or otherwise acquire the described property.

Various public agencies may have issued opinions on both the subdivision proposal and the information contained in this disclosure statement. Summaries of these opinions are contained in this disclosure statement. They may be favorable or unfavorable. You should read them closely.

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only. This Disclosure Statement may not be amended after its approval by the County of Lincoln without the express written approval of the Board of County Commissioners.

The Board of County Commissioners recommends that you inspect the property before buying, leasing or otherwise acquiring it.

If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the six (6) month period, you have three (3) days to rescind the transaction and receive all your money back from the subdivider when merchantable title is revested in the subdivider. To rescind the transaction you must give the subdivider written notice of your intent to rescind within three (3) days after the date of your inspection of the property.

G1

LINCOLN COUNTY-NM
RENDA B HURFOS, CLERK
201304825
Book2013 Page 4825
100 of 115
07/17/2013 09:00:00 AM

*Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement-Fewer than 5 parcels
Form G1-7/Rev.7/16/13*

2013 JUL 17 PM 2:08

County regulations require that any deed, real estate contract, lease or other instrument conveying an interest in a parcel in the subdivision be recorded with the Lincoln County Clerk.

Building permits, wastewater permits or other use permits must be issued by state or county officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease, or otherwise acquire an interest in the land. You should also determine whether such permits are requirements for construction of additional improvements before you occupy the property.

1. **NAME OF SUBDIVISION**
(name of subdivision)
2. **NAME AND ADDRESS OF SUBDIVIDER**
(name of subdivider)
(address of subdivider)
3. **CONDITION OF TITLE**
Include at least the following information where applicable
(number of mortgages)
(name and address of each mortgagee)
(balance owing on each mortgage)
(summary of release provisions of each mortgage)
(number of real estate contracts on the subdivided land for which the subdivider is making payments as a purchaser)
(name and address of each person holding a real estate contract as owner of the subdivided land for which the subdivider is making payments as a purchaser)
(balance owing on each real estate contract)
(summary of default provisions of each real estate contract)
(summary of release provisions of each real estate contract)
(statement of any other encumbrances on the land)
(statement of any other conditions relevant to the state of title)
4. **STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD THAT SUBJECT THE SUBDIVIDED LAND TO ANY CONDITIONS AFFECTING ITS USE OR OCCUPANCY**
(state here all deed and plat restrictions affecting the subdivided land)
5. **UTILITIES**
(name of entity providing electricity, if available)
(estimated cost per parcel)
(name of entity providing gas service, if available)
(estimated cost)
(name of entity providing water, if available)
(estimated cost)

G2

*Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement-Fewer than 5 parcels
Form G1-7/Rev.7/16/13*

LINCOLN COUNTY-NM
RONDA B HURD, CLERK
201304825
Book2013 Page 4825
101 of 115
07/17/2013 09:00:00 AM

2013 JUL 17 PM 2:08

(name of entity providing telephone, if available)
(estimated cost)
(name of entity providing liquid waste disposal, if available)
(estimated cost)
(name of entity providing solid waste disposal, if available)
(estimated cost)

6. INSTALLATION OF UTILITIES

(electricity) (date)
(gas) (date)
(water) (date)
(telephone) (date)
(liquid waste disposal) (date)
(solid waste disposal) (date)

7. UTILITY LOCATION

(if all utilities are to be provided to each parcel in the subdivision, please state here)
(if utilities are to be provided to some but not all parcels in the subdivision, state which utilities will be provided to each parcel)
(state whether each utility will be above ground or underground)

	Above ground	Underground
electricity	_____	_____
gas	_____	_____
water	_____	_____
telephone	_____	_____
liquid waste disposal	_____	_____
solid waste disposal	_____	_____

8. WATER AVAILABILITY

(describe the means of water delivery within the subdivision)
(describe the results of the on-site water quality test conducted and date of said test)
(describe any limitations and restrictions on water use in the subdivision)
(summarize the provisions of any covenants or other restrictions requiring the use of water saving fixtures and other water conservation measures)
(describe the maximum annual water requirements of the subdivision)

9. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS (if applicable)

(name and address of entity providing water)
(source of water and means of delivery)
(summary of any legal restrictions on either indoor or outdoor usage)
(statement that individual wells are prohibited, if such is the case)

G3

2013 JUL 17 PM 2:08

10. LIQUID WASTE DISPOSAL

(describe the precise type of liquid waste disposal system that is proposed and that has been approved by the Board of County Commissioners for use within the subdivision)

NOTE: NO LIQUID WASTE DISPOSAL SYSTEM MAY BE USED IN THIS SUBDIVISION OTHER THAN A SYSTEM APPROVED FOR USE IN THIS SUBDIVISION BY THE BOARD OF COUNTY COMMISSIONERS

11. SOLID WASTE DISPOSAL

(describe the means of solid waste disposal that is proposed for use within the subdivision)

(Designate garbage collection sites for developments with four (4) or more parcels.)

NOTE: *The residents of all subdivisions within Lincoln County shall be billed for the services provided by Lincoln County Solid Waste Authority for the disposal of solid waste materials.*

12. TERRAIN MANAGEMENT

(describe the suitability for residential use of the soils in the subdivision as defined in the Soil and Water Conservation)

(District's soil survey for Lincoln County)

(describe any measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures)

(identify by lot and block numbers all parcels within the subdivision that are subject to flooding)

(identify by lot and block numbers all parcels within the subdivision located in whole or in part on slopes in excess of 8%)

(describe the surface drainage for all lots in the subdivision)

(describe the subsurface drainage for all lots in the subdivision)

(describe the nature, location and completion dates of all storm drainage systems constructed or required to be constructed in the subdivision)

13. SUBDIVISION ACCESS

(name of town nearest to subdivision)

(distance from nearest town to subdivision and the route over which that distance is computed)

(describe access roads to subdivision)

(state whether or not subdivision is accessible by conventional vehicle)

(state whether or not subdivision is ordinarily accessible at all times of the year and under all weather conditions)

(describe the width and surfacing of all roads within the subdivision)

(state whether the roads within the subdivision have been accepted for maintenance by the County)

G4

*Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement-Fewer than 5 parcels
Form G1-7/Rev.7/16/13*

LINCOLN COUNTY-NM

HONDA B HURFOS, CLERK

201304825

Book2013 Page 4825

103 of 115

07/17/2013 09:00:00 AM

2013 JUL 17 PM 2:08

(if the roads within the subdivision have not been accepted for maintenance by the County, state how the roads will be maintained and describe lot owners' responsibilities and obligations with respect to road maintenance)

14. **MAINTENANCE**

(state whether the roads and other improvements within the subdivisions will be maintained by the county, the subdivider or an association of lot owners, and what measures have been taken to make sure that maintenance takes place)

15. **CONSTRUCTION GUARANTEES (if applicable)**

(Describe any proposed roads, drainage structures, water and wastewater treatment facilities or other improvements that will not be completed before parcels in the subdivision are offered for sale.)

(Describe all performance bonds, letters of credit or other collateral securing the completion of each proposed improvement.)

UNLESS THERE IS SUFFICIENT BOND, LETTER OF CREDIT, OR OTHER ADEQUATE COLLATERAL TO SECURE THE COMPLETION OF PROPOSED IMPROVEMENTS, IT IS POSSIBLE THAT THE PROPOSED IMPROVEMENTS WILL NOT BE COMPLETED. CAUTION IS ADVISED.

16. **ADVERSE OR UNUSUAL CONDITIONS**

(State any activities or conditions adjacent to or nearby the subdivision, such as feed lots, dairies, cement plants or airports, that would subject the subdivided land to any unusual conditions affecting its use or occupancy.)

17. **FIRE PROTECTION**

(distance to nearest fire station from subdivision and estimated time of travel from furthest lot in subdivision)

(route over which that distance is computed)

(state whether the fire department is full-time or volunteer)

18. **POLICE PROTECTION**

List the various police units that patrol the subdivision.

(sheriff's department, if applicable)

(municipal police, if applicable)

(state police, if applicable)

19. **PUBLIC SCHOOLS**

(name of and the distance to nearest public elementary school serving the subdivision)

(name of and the distance to nearest public junior high or middle school serving the subdivision)

(name of and the distance to nearest public high school serving the subdivision)

G5

LINCOLN COUNTY-NM

HELENA B. BURTON, CLERK

201304825

Book 2013 Page 4825

104 of 115

07/17/2013 09:00:00 AM

*Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement-Fewer than 5 parcels
Form G1-7/Rev.7/16/13*

2013 JUL 17 PM 2:08
(name of

We the undersigned owners of _____
subdivision), Lincoln County, New Mexico, do hereby certify that the foregoing statements are true and
correct to the best of our knowledge and belief.

WITNESS our hands and seals on this the ____ day of _____,

(typed name of subdivision)

ATTEST:

(typed name(s) of signatory(ies))

(typed name of attestor)

THE STATE OF NEW MEXICO)
) SS.
COUNTY OF LINCOLN)

On this ___ day of _____, _____, before me appeared _____,
to me personally known, who, being by me duly sworn did say that (he/she/they) is (are) the _____
_____ of _____(name of subdivision/corporation), and that said
instrument was signed on behalf of said _____ (name of subdivision/corporation).

NOTARY PUBLIC

My Commission Expires:

**BY SIGNING THIS RECEIPT YOU ACKNOWLEDGE THAT YOU HAVE RECEIVED A
COPY OF THIS DISCLOSURE STATEMENT.**

Received by: _____ Date: _____

Address: _____

City: _____

State: _____ Zip Code: _____

G6

*Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement-Fewer than 5 parcels
Form G1-7/Rev.7/16/13*

Additionally, a buyer should be advised that if the prospective property is located along a paved roadway, that pavement has a limited life expectancy. Future repaving expenses may be borne by the property owner through an assessment district or some other legal mechanism authorized by law.

If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the six (6) month period, you have three (3) days to rescind the transaction and receive all of your money back from the subdivider when merchantable title is revested in the subdivider. To rescind the transaction you must give the subdivider written notice of your intent to rescind within three (3) days after the date of your inspection of the property.

**ALL SUBDIVIDERS MUST COMPLETE EACH
ITEM SET FORTH IN PARENTHESIS BELOW**

- A. NAME OF SUBDIVISION AND LOCATION
(name of subdivision)
(location of subdivision)
- B. NAME AND ADDRESS OF SUBDIVIDER
(name and address)
- C. NAME AND ADDRESS OF PERSON IN CHARGE OF SALES OR LEASING IN NEW MEXICO
(name and address)
- D. SIZE OF SUBDIVISION BOTH PRESENT AND ANTICIPATED:
PRESENT: (number of parcels)
(number of acres in subdivision)
ANTICIPATED: (number of parcels)
(number of acres in subdivision)
- E. SIZE OF SMALLEST AND LARGEST PARCEL OFFERED FOR SALE OR LEASE WITHIN THE SUBDIVISION
(size of smallest parcel in acres)
(size of largest parcel in acres)
- F. DISTANCE FROM THE NEAREST TOWN TO THE SUBDIVISION, AND THE ROUTE OVER WHICH THIS DISTANCE IS COMPUTED
- G. PROPOSED RANGE OF SELLING OR LEASING PRICES
(\$.....- lowest amount) (size of parcel sold or leased)
(\$.....- highest amount) (size of parcel sold or leased)

H2

2013 JUL 17 PM 2:08

H. FINANCING TERMS
(interest)
(time price differential)
(amount paid as discount)
(service charges)
(premium on credit life or other insurance if it is a condition for giving credit)
(any other information required by the Truth in Lending Act if not set forth above)

I. NAME AND ADDRESS OF HOLDER OF LEGAL TITLE
(name of person who or legal entity that is recorded as having legal title)
(address)

NOTE: If a corporation or other legal entity is the title holder, please set out here the name and addresses of all officers in the corporation or entity.

J. NAME AND ADDRESS OF PERSON HAVING EQUITABLE TITLE
(name of person(s) recorded as having equitable title)
(address)

NOTE: If a corporation or other legal entity holds equitable title, please set out here the names and addresses of all officers in the corporation or entity.

K. CONDITION OF TITLE
Include here at least the following information where applicable:
(number of mortgages)
(name of each mortgagee)
(balance owing on each mortgage)
(summary of the release provision in each mortgage)
(number of all real estate contracts on the subdivided land for which the subdivider is making payments as a purchaser)
(balance owing on each real estate contract)
(summary of the release provisions in each real estate contract)
(statement of any other encumbrances on the land)
(statement of any other conditions relevant to the state of the title)
(disclose full consequences to real estate contracts and owner's equity if subdivider goes bankrupt or mortgagee forecloses on subdivision)

L. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD SUBJECT-
ING THE SUBDIVIDED LAND TO ANY UNUSUAL CONDITIONS AFFECTING ITS
USE OR OCCUPANCY
(Include here all deed and plat restrictions affecting the subdivided land as well as references to applicable zoning ordinances. Also include all zoning designations for this subdivision.)

H3

LINCOLN COUNTY-NM
RONDA B HURD, CLERK
201304825

Book2013 Page 4825
107 of 115

07/17/2013 09:00:00 AM

Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement - 6 or more parcels
Form H1-11/Rev.7/16/13

- M. STATEMENT OF ALL WATER RIGHTS AFFECTED IF SUBDIVISION IS ON A DITCH OR STREAM OR RIVER.
(Include number of water rights affected, a consensus of ditch owners and all easements.)
- N. ESCROW AGENT
(name)
(address)
(statement about whether or not the subdivider has any interest or financial ties with the escrow agent)
- O. UTILITIES
(name of entity providing phone service, if available)
(estimated cost)
(name of entity providing electrical service, if available)
(estimated cost)
(name of entity providing gas service, if available)
(estimated cost)
(name of entity providing water, if available)
(estimated cost)
(name of entity providing cable, if available)
(estimated cost)
- P. INSTALLATION OF DEVELOPER-PROVIDED IMPROVEMENTS
Include here the date each utility will be available for use by the owner if the subdivider is providing for utilities and a statement indicating that installation of utilities in any county right of way will be subject to the Lincoln County Excavation Ordinance.
(roads) (date)
(water) (date)
(phone) (date)
(electricity) (date)
(gas) (date)
(liquid waste disposal) (date)
(solid waste disposal) (date)
(cable television) (date)
- Q. UTILITY LOCATION
(If all utilities are to be provided to each parcel in the subdivision, please make that statement here.)
(If utilities are to be provided, but not for all parcels within the subdivision, please enumerate those parcels which will not be provided with a particular utility.)
(State here if each of the utilities to be provided is to be located above or underground.)
- R. WATER USE

Include here whether or not there will be water for domestic use, commercial use or recreational use and include any limitation, physical or legal, anticipated for each use indicated.

(domestic use) (limit, if any)

(commercial use) (limit, if any)

(recreational use) (limit, if any)

(Indicate whether the subdivider or owner will provide the water.)

(describe the results of the on-site water quality test conducted and date of said test)

S. AMOUNT OF WATER

If the subdivider is to provide water for any use, he shall provide the following information:

(Minimum daily quantity of water to be provided for each parcel and for each proposed use)

(The date on which water will be made available to each parcel and for each proposed use)

T. WATER DELIVERY

(Describe the means of water delivery within the subdivision.)

All community water system wells and service connections shall be metered, and readings reported to the water system management at monthly intervals, and appropriate state authorities at intervals specified in the water right permit conditions.

U. WATER SYSTEM EXTENSION

(State what the prospective owner will be required to pay for the extension of water to his parcel if he wants water prior to the date scheduled by the subdivider.)

V. LIFE EXPECTANCY OF THE WATER SUPPLY

(Include the life expectancy of each source of water supply under full development of the subdivision.)

X. SURFACE WATER

(state the source and yield of the surface water supply)

(state the treatment method for the water source)

(provide State Engineer's statement of approval for use of surface water)

(provide Environment Department's statement of approval for treatment method)

Y. STATE AGENCIES STATEMENTS ON WATER

1. State Engineer's Statement of Water Quantity

Include here the approved summary of the statement received by the Lincoln County Board of Commissioners from the State Engineer on:

(whether or not the subdivider can satisfy the proposals contained in this disclosure statement concerning water - except water quality)

H5

LINCOLN COUNTY-NM

HONDA B HURROWS, CLERK

201304825

Book 2013 Page 4825

109 of 115

07/17/2013 09:00:00 AM

Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement - 6 or more parcels
Form H1-11/Rev.7/16/13

(whether or not the subdivider is conforming with the County's regulations on water - except water quality)

2. Environment Department's Statement of Water Quality.
(Describe any quality which would make the water unsuitable for use in the subdivision, and state each maximum water quality parameter that has been exceeded.)
3. (Provide test results obtained for primary and secondary contaminants, including total dissolved solids, hardness, iron, and manganese.

Z. LIQUID WASTE DISPOSAL

(Describe the precise type of liquid waste disposal system that is proposed and that has been approved by the commission for use within the subdivision.)

NOTE: No other liquid waste disposal system may be used in a subdivision other than the system approved by the Environment Department.

AA. ENVIRONMENT DEPARTMENT'S STATEMENT ON LIQUID WASTE DISPOSAL

Include here the approved summary of the statement received by the Lincoln County Board of Commissioners from the New Mexico Environment Department on:

(Whether or not the subdivider can satisfy the liquid waste disposal proposals made in this disclosure statement.)

(Whether or not subdivider is conforming with the County's regulations on liquid waste disposal.)

BB. SOLID WASTE DISPOSAL

(Describe the means of solid waste disposal that is proposed for use within the subdivision.)
(Designate garbage collection sites for developments with four (4) or more parcels.)

NOTE: *The residents of all subdivisions within Lincoln County shall be billed for the services provided by Lincoln County Solid Waste Authority for the disposal of solid waste materials. Containers will be placed at the Authority's discretion, not at property owner's request.*

CC. ENVIRONMENTAL IMPROVEMENT AGENCY'S STATEMENT ON SOLID WASTE DISPOSAL

Include here the approved summary of the statement received by the Lincoln County Board of Commissioners from the New Mexico Environment Department on:

(whether or not the subdivider can satisfy the solid waste disposal proposals made in this disclosure statement)

H6

LINCOLN COUNTY-NM

RONA B HURFOS, CLERK

201304825

Book2013 Page 4825

110 of 115

07/17/2013 09:00:00 AM

(whether or not the subdivider is conforming with the County's regulations on solid waste disposal)

DD. TERRAIN MANAGEMENT

(describe the suitability of the soils in the subdivision for residential use and other intended uses whether permanent or seasonal)

(give the location of all lots within floodways, flood fringes, and flood plains)

(describe the surface drainage for all lots)

(describe all storm drainage systems including the completion date of any required to be constructed)

EE. CONSERVATION DISTRICT'S STATEMENT ON TERRAIN MANAGEMENT

Include here the approved summary of the statement received by the Lincoln County Board of Commissioners from the Soil and Water Conservation District on:

(whether or not the subdivider can satisfy the terrain management proposals made in this disclosure statement)

(whether or not the subdivider is conforming with the County's regulations on terrain management)

FF. SUBDIVISION ACCESS

(name of town nearest subdivision)

(distance from town to subdivision)

(name of highway or state road over which distance is computed)

(if access to subdivision is available by conventional vehicle, please state that fact here. If it is not, please state that fact)

(if property is ordinarily accessible in all seasons and under all weather conditions please state so. if it is not, please state that fact also)

(set forth whether or not roads within the subdivision will be private or maintained by the County)

(describe the width and type of surfacing of all roads)

(give the date on which all roads will be completed)

(state whether the roads within the subdivision have been accepted for maintenance by the County)

(include a statement that if accepted for maintenance, the county cannot guarantee access three hundred sixty-five (365) days a year. The Road Manager will determine the type, amount and season of maintenance.)

(state the date on which all roads will be surfaced)

GG. THE DEPARTMENT OF TRANSPORTATION'S STATEMENT ON ACCESS

H7

*Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement - 6 or more parcels
Form H1-11/Rev.7/16/13*

LINCOLN COUNTY-NM

RONDA B HURDOWS, CLERK

201304825

Book 2013 Page 4825

111 of 115

07/17/2013 09:00:00 AM

Include here the approved summary of the statement received by the Lincoln County Board of Commissioners from the Department of Transportation on:

(whether or not the subdivider can satisfy the access proposals made in this disclosure statement)

(whether or not the subdivider is conforming with the County's regulations on access)

HH. DEVELOPMENT

Include here all homes, recreation structures, and other community improvements to be provided by the subdivider in the subdivision and not previously mentioned in this disclosure statement. Give the dates on which these items will be completed.

(improvement)

(estimated date of completion)

II. MAINTENANCE

(state owner's maintenance and construction responsibilities)

JJ. ADVERSE CONDITIONS

(state any activities or conditions adjacent to or near the subdivision such as feedlots, cement plants, and the like which would subject the subdivided land to any unusual conditions affecting its use or occupancy) Include "many areas of Lincoln County are on or near wooded areas which if not kept healthy and cleared of fuel loaded litter and dense tree cover may pose a fire hazard. Fuel breaks of 30 feet around structures is encouraged"

KK. ATTORNEY GENERAL'S STATEMENT ON DISCLOSURE STATEMENT

LL. RECREATION FACILITIES

(describe all recreational facilities, actual and proposed, in the subdivision)

MM. FIRE PROTECTION

(distance from subdivision and estimated time of travel from furthest lot in subdivision)

(route over which distance is computed)

(indicate whether the fire department is staffed by volunteers or a full-time staff)

NN. POLICE PROTECTION

Include here the various police units that would patrol the subdivision:

(sheriff's department, if applicable)

(municipal police, if applicable)

(state police, if applicable)

OO. SCHOOLS

(name of nearest elementary school)

(distance of nearest elementary school and route over which distance is computed)

H8

Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement - 6 or more parcels
Form H1-11/Rev.7/16/13

LINCOLN COUNTY-NM

HONDA B EURCKE, CLERK

201304825

Book2013 Page 4825

112 of 115

07/17/2013 09:00:00 AM

2013 JUL 17 PM 2:08

(name of nearest secondary school)
(distance of nearest secondary school and route over which distance is computed)

PP. HOSPITALS

(name of nearest hospital)
(distance of nearest hospital and route over which distance is computed)
(number of beds in nearest hospital)

QQ. SHOPPING FACILITIES

(distance of nearest shopping facilities and route over which distance is computed)
(number of stores in the nearest shopping facility)

RR. PUBLIC TRANSPORTATION

Include here whether the subdivision is served on a regular basis by:
(bus)
(plane)
(other means of transportation)

SS. COMPLETION DATES

(state here the projected dates upon which any of the items mentioned in LL through RR will be available if they are not yet available)

TT. SOIL SURVEY INFORMATION AND INTERPRETATION

UU. INDICATE BY LOT AND BLOCK NUMBER ALL LOTS LOCATED ON A FLOOD-PLAIN OR FLOOD FRINGE

VV. DRIVEWAY CULVERTS

Prior to installing a driveway culvert in a county road barrow ditch, the subdivider or owner shall obtain the county road superintendent's written permission and instructions for such installation. Culverts for driveways must meet road design standards and be at least 18" in diameter.

WW. DRIVEWAY EASEMENT

Driveway construction must have a permit from the Road Foreman and will be built according to County standards subject to Lincoln County Excavation Ordinance #2002-01. Permit cost to be incurred by owner.

XX. SUBDIVISION OF LOTS/TRACTS

Division of lots/tracts platted in the subdivision must be reviewed by the County Planning and Zoning Commission. Restrictive covenants of this subdivision may/may not allow

H9

2013 JUL 17 PM 2:08

division of lots/tracts in the subdivision. Approval is at the discretion of the commissions and is not automatic.

YY. RECORDING REQUIREMENT

The subdivider shall record the deed, real estate contract, lease or other instrument conveying an interest in subdivided land with the County Clerk within thirty (30) days of the signing of such instrument by the purchaser, lessee or other person acquiring an interest in the land.

ZZ. PERMITS

Building permits, wastewater permits or other use permits are required to be issued by State or County officials before improvements are constructed; and, further, you are advised to investigate the availability of such permits before purchase, lease or other conveyance and whether these requirements for construction of additional improvements before you accept the property.

We the undersigned owners of _____
(name of subdivision), Lincoln County, New Mexico, do hereby certify that the foregoing statements are true and correct to the best of our knowledge and belief.

WITNESS our hands and seals on this the ____ day of _____, _____.

(typed name of subdivision)

ATTEST:

(typed name(s) of signatory(ies))

(typed name of attester)

LINCOLN COUNTY-NM
RONDA B HURFORS, CLERK
201304825
Book 2013 Page 4825
114 of 115
07/17/2013 09:00:00 AM

2013 JUL 17 PM 2:08

THE STATE OF NEW MEXICO)
)
COUNTY OF LINCOLN)

On this ___ day of _____, _____ before me appeared _____
_____, to me personally known, who, being by me duly sworn did say that
(he/she/they) is (are) the _____ of _____
(name of subdivision/corporation), and that said instrument was signed on behalf of said _____
_____ (name of subdivision/corporation).

NOTARY PUBLIC

My Commission Expires:

**BY SIGNING THIS RECEIPT YOU ACKNOWLEDGE THAT YOU HAVE
RECEIVED A COPY OF THIS DISCLOSURE STATEMENT.**

Received by: _____ Date: _____

Address: _____

City: _____

State: _____ Zip Code: _____

H11

LINCOLN COUNTY-NM
RONDA B HURONS, CLERK
201304825
Book 2013 Page 4825
115 of 115
07/17/2013 09:00:00 AM

*Lincoln County Subdivision Ordinance 2013-2
Disclosure Statement - 6 or more parcels
Form H1-11/Rev. 7/16/13*