

LINCOLN COUNTY

NEW MEXICO

SUBDIVISION

ORDINANCE

2002-06

**AMENDING, REPEALING, AND REENACTING
ORDINANCE 2001-12**

ORDINANCE 2002-06

**Amending, Repealing, and Reenacting
Ordinance 2001-12**

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ORDINANCE 2002-06
AMENDING, REPEALING, AND RE-ENACTING
LINCOLN COUNTY SUBDIVISION
ORDINANCE NO. 2001-12

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

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

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

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

because of:

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

Section 1.5 Interpretation

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

ARTICLE 2 DEFINITIONS

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

- A. "Absorption field" means an area in which open joint or perforated piping is laid in gravel-packed trenches or excavations for the purpose of distributing the effluent discharged from a tank used as part of an individual liquid waste disposal system for absorption into the soil.
- B. "Aerobic Disposal System" means a tank where air is introduced to the liquid waste by mechanical means, together with an absorption field.
- C. "Block" means the distance measured along a street between intersection streets from center line; and where the context requires, it also means the enclosed area within the perimeter of the streets or property lines enclosing it.
- D. "Body of Water" means all water situated wholly or partly within or bordering upon this State, whether surface or subsurface, public or private.
- E. "Buffer strip" means the land:
 - 1. adjoining a watercourse or drainage channel with a vertical bank of at least forty-five degrees (45°); and
 - 2. extending perpendicularly from the vertical bank of the watercourse or drainage channel to a distance three (3) times the depth of the watercourse or drainage channel measured from the bottom of the watercourse or drainage channel to the top of the highest bank.
 - 3. The area adjacent to highway, railroads and other objectionable land usages.
- F. "Building Setback Line" means a line on a plat, between which line and street right-of-way line no building or structure may be erected.

- G. "Class I Water Supply System" means a water supply system serving eleven (11) or more parcels.
- H. "Class II Water Supply System" means a water supply system serving ten (10) or less parcels.
- I. "Commission" means the Planning Commission.
- J. "County" means the Lincoln County Board of Commissioners.
- K. "Community Liquid Waste Treatment System" means a system serving two (2) or more parcels for the collection and treatment of liquid waste.
- L. "Condominium" - as defined in the New Mexico Condominium Act, NMSA 1978, §§47-7A-1 to 47-7D-20 (1995 Repl.).
- M. "County Clerk" means the County Clerk of Lincoln County, State of New Mexico.
- N. "County Engineer" means the County Engineer for Lincoln County, State of New Mexico, or his duly authorized representative, employed on a consulting basis as such services are needed.
- O. "County Manager" means the County Manager of Lincoln County, State of New Mexico.
- P. "Disclosure Statement" means a submittal detailing in writing certain specified information required by the New Mexico Subdivision Act and this Ordinance prior to selling or leasing any land to permit a prospective purchaser or a lessee to make an informed decision about the purchase or lease of said land, a copy of which is sent to the Attorney General's Office.
- Q. "Drainage channel" means any depression into which storm water flows along a defined course.
- R. "Driveway" means a private road giving access from a cut that intersects a County road or state road or public thoroughfare to a building or prospective building site.
- S. "Easement" means a right or privilege that a person or persons may have in another's land, such as the right of passage, on which no permanent structure that denies access can be constructed.
- T. "Engineering interpretations" means the involvement of a Professional Engineer registered in the State of New Mexico to study, analyze, report on, and otherwise offer opinions concerning topics which include but are not limited to soils, environment, water, sewage, streets and water crossings, all as they relate to the content and objectives of this Ordinance.
- U. "Erosion" means soil movement due to wind or water.
- V. "Erosion Control Structure" means any man-made device preventing or controlling erosion.
- W. "Flight Zone" an overlay of that area around airports which are subject to uses, height and location restrictions to separate uncontrollable noise sources from noise sensitive areas and facilitate the orderly development of those areas it overlays.

- X. "Floodway" means any area which will be flooded by high water from a twenty-five (25) year frequency storm (a four percent [4%] chance of occurrence storm in one [1] year).
- Y. "Flood Fringe" means any area which will be flooded by high water from a fifty (50) year frequency storm (a two percent [2%] change of occurrence storm in one [1] year).
- Z. "Flood Plain" means any area which will be flooded by high water from a one hundred (100) year frequency storm (a one percent [1%] chance of occurrence in one [1] year).
- AA. "Geohydrologic report" means a report on subsurface water availability.
- BB. "Hydrologic report" means a report on surface water availability.
- CC. "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 natural birth or adoption.
- DD. "Individual liquid waste disposal system" means a disposal system which serves an individual dwelling or parcel and includes, but it is not limited to, septic tank systems, aerobic disposal systems and vapotranspiration systems.
- EE. "Lease" means to transfer or to offer to transfer the use or possession of realty, when the use of possession of the realty is limited to certain periods of time, express or implied.
- FF. "Liquid waste" means domestic wastewater containing human excreta or other water-carried waste.
- GG. "Local district" means any natural resource conservation district within the County in which the proposed subdivision is located.
- HH. "Lot" means parcel.
- II. "Maintenance Bond" is a form of security required by the County of Lincoln after the construction of developer provided improvements of a subdivision have been completed and is required to be maintained through the test period.
- JJ. "mg-l" means milligrams per liter.
- KK. "mmc" means micro-micro curie.
- LL. "Mobile Home" means a manufactured structure at least 8' x 32' which can be transported in one (1) or more sections, each on its own permanently attached chassis and which is designed or intended for a use as a dwelling with or without a fixed foundation.
- MM. "Occupancy" means a permanent residence has been constructed and is connected with all primary

utilities. Permanent residence may include a mobile home, but does not include travel trailers or temporary structures.

- CO COPY
- NN. "Owner" means any person or his successor in interest who purchases or leases land within a subdivision from a subdivider.
- OO. "Parcel" means land capable of being described by location and boundaries and not dedicated for public or common use.
- PP. "Parcel, double frontage" means a continuous (through) parcel the same depth as the width of a block and which is accessible from both of the streets upon which it fronts.
- QQ. "Parcel, single tier" means a parcel which backs upon a limited access highway, a railroad, a physical barrier, or a non-residential use and to which vehicular access from the rear is usually prohibited.
- RR. "Performance Bond" is a form of security required by the County of Lincoln, required to be obtained by a Subdivider prior to and during the construction of developer provided improvements of a subdivision.
- SS. "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other legal entity.
- TT. "Planning Commission" means the officially appointed Planning Commission of Lincoln County, New Mexico.
- UU. "Plat" means a map, chart, survey, plan or replat, certified by a licensed registered land surveyor, containing a description of the subdivided land with ties to permanent monuments.
- VV. "Plat, Final" means a map, chart, survey, plan or replat, certified by a licensed, registered land surveyor, containing a description of the subdivided land with ties to permanent monuments prepared in a form suitable for filing.
- WW. "Plat, Preliminary" means a map and other submittals as required by this Ordinance of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.
- XX. "Private Road" means any road that is not dedicated to or maintained by the County.
- YY. "Privy" means any non-water-carried disposal facility for human excreta.
- ZZ. "Replat" means a change in a map of an approved or recorded subdivision plat, if such change affects any street layout on such map or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally recorded prior to the adoption of any regulation controlling subdivisions.

- AAA. "Sediment" means soil or other surface material transported by wind or surface water.
- BBB. "Septic tank system" means a tank which is designed and constructed to separate solids from the liquid and digest organic matter through a period of detention, together with an absorption field.
- CCC. "Soil survey" means a national cooperative soil survey conducted by the United States Department of Agriculture in cooperation with the State Agriculture Experiment Station and other federal and state agencies or any other survey containing information of comparable quality and detail approved by the local district.
- DDD. "Solid Waste" means any solid or semi-solid discarded material which results from household, commercial, industrial, or other operations, but does not include waterborne waste in sewerage system.
- EEE. "Street" means all property dedicated or intended for public use or access to abutting lands or subject to public easement, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle or however otherwise designated.
- FFF. "Street, arterial" means a street of considerable length that carries, or that planning evidence indicates will carry a large volume of traffic; or which provides a continuous route through a major portion of the County or any urbanized area within the County.
- GGG. "Street, collector" means a street that serves as a connection between several local streets and one (1) or more arterial streets.
- HHH. "Street, cul-de-sac" means a local street with only one (1) outlet and culminated by a turnaround.
- III. "Street, local" means a street of relatively short length that provides direct access to a limited number of abutting properties and protection from through traffic and control of intersections with major traffic streets.
- JJJ. "Street, roadway" means that portion of the street available for vehicular traffic and, where curbs are laid, the portion from back-to-back curbs.
- KKK. "Street section" means the typical cross section, including but not limited to the combined surface course, base course, sub base, and prepared sub grade, all as applicable, considered as a single unit.
- LLL. "Subdivider" means any person who creates or who has created a subdivision individually or as part of a common promotional plan or any person engaged in the sale, lease or other conveyance of subdivided land; however, "subdivider" does not include any duly licensed real estate broker or salesperson acting on another's account.
- MMM. "Subdivision" means an area of land within New Mexico, including land within a previously approved subdivision, the surface of which has been divided into two (2) or more parcels, for the purpose of

sale or lease, or other conveyance; or for building development, whether immediate or future; however, subdivision does not include:

1. The sale, lease, or other conveyance of any parcel that is thirty-five acres or larger in size within any twelve month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with NMSA 1978, §7-36-20, for the preceding three years;
2. The sale or lease of apartments, offices, stores or similar space within a building;
3. The division of land within the boundaries of a municipality;
4. The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;
5. The division of land created by court order, where the order creates no more than one parcel per party;
6. The division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities;
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;
8. The division of land to create burial plots in a cemetery;
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;
10. The division of land created to provide security for mortgages, liens, or deeds of trust, provided that the division of land is not the result of a seller-financed transaction;
11. The sale, lease, or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres;
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 which 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; or
13. The sale, lease, or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five (5) year period, provided that

a second or subsequent sale, lease or other conveyance from the same tract of land within five (5) years of the first sale, lease, or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act; provided further that a survey shall be filed with the County Clerk indicating the five (5) year holding period for both the original tract and the newly created tract.

NNN. "Tank" means a water tight receptacle which receives liquid waste from the sanitary drainage system of a building and in which bacteria assimilation of organic matter takes place.

OOO. "Terrain management plan" means the subdivider's proposal for the control of floods, drainage and erosion, and measures required for adapting proposed development to existing soil characteristics and topography.

PPP. "Time of purchase or lease or other conveyance" means the time of signing any document obligating the person signing the document to purchase land or lease or otherwise acquire a legal interest in land.

QQQ. "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.

RRR. "Type-two subdivision" means any subdivision containing not less 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.

SSS. "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.

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

UUU. "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.

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

- VVV. "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.
- WWW. "Water Availability Assessment" means an evaluation to demonstrate that sufficient quantities of potable water are available to supply the maximum annual water requirements of the proposed subdivision for all indoor and outdoor domestic uses over a 40-year period. Components of the assessment shall include: (1) a description of the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses, (2) a description of the availability and sources of water to meet the subdivision's maximum annual water requirements over 40 years, (3) a description of the means of water conveyance and delivery within the subdivision, (4) a description of any limitations and restrictions on indoor or outdoor water use in the subdivision and summary of covenants for said restrictions or conservation measures, and (5) a description of measures, if any, to be used to monitor or restrict water use within the subdivision.
- XXX. "Water control structure" means any man-made device for containing or channeling water.
- YYY. "Water course" means any river, creek, spring, stream, or any other like body having definite banks and evidencing the occasional flow of water.
- ZZZ. "Water Demand Analysis" means an evaluation to determine the maximum annual water requirements of the proposed subdivision for all indoor and outdoor domestic uses. See also Quantification of Annual Water Requirements, Article 18.2. Unless demonstrated otherwise, minimum water use shall be 0.25 acre-feet per parcel per year. Fire flow requirements must be considered for subdivisions over one hundred lots and with community water systems.
- AAAA. "Water supply system" means a system to provide water for domestic use and for human consumption.

ARTICLE 3 PRE-APPLICATION PROCESS

Section 3.1 Pre-Application Procedures

- 3.1.1 Conference. For the purpose of expediting applications and reducing subdivision design and development costs, a subdivider must request an informal pre-application conference in accordance with the requirements provided herein. The pre-application conference is intended to provide general advice to the subdivider about the procedures and data requirements for subdivision review and approval in the County.
- 3.1.2 Summary Procedure Conference. All proposed subdivisions which qualify for approval under the summary procedure provided in Article 7 of this Ordinance must begin with a pre-application conference.
- 3.1.3 Scheduling. At the request of the subdivider, the County Manager and County Planner shall schedule a pre-application conference in order for the subdivider to meet with them and to become acquainted with the necessary requirements for subdivision review and approval.

- 3.1.4 Fee. No fee shall be required for a pre-application conference.
- 3.1.5 Statements Non-Binding. Neither the subdivider nor the County shall be bound by any statements or determinations made during the pre-application conference.
- 3.1.6 Application/Forms. At the request of the subdivider, the County Manager or County Planner shall provide sufficient guidance and application forms for preliminary plat submittal in order to proceed with the County subdivision process and to fulfill the requirements of the New Mexico Subdivision Act.

Section 3.2 Pre-Application Data Requirements

- 3.2.1 Sketch Plat. A sketch plat shall be prepared by the subdivider which shows the proposed layout of streets and lots, with estimated dimensions and other relevant site information. The location of the proposed subdivision must be adequately described on a general map of the area.
- 3.2.2 Additional Information. In addition to the sketch plat and location map, the subdivider shall provide the following information:
 - A. name and mailing address of the subdivider and designated agent, if any;
 - B. name of owners or owners of land to be subdivided;
 - C. a description of surrounding land uses; and
 - D. accessibility of site to roads and utilities.

ARTICLE 4 PRELIMINARY PLAT REVIEW PROCESS

Section 4.1 Preliminary Plat Submittal

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

Section 4.2 State Agency Review

- 4.2.1 Plat Transmittal. Requests for opinions and review for a preliminary plat for all Type-one, Type-two, Type-three subdivisions with six (6) or more parcels, and Type-four subdivisions will be sent by the County Manager, within ten (10) days after the preliminary plat is deemed complete, to:
 - A. the New Mexico State Engineer;

- B. the New Mexico Environment Department;
 - C. Soil and Water Conservation District;
 - D. the New Mexico Highway and Transportation Department;
 - E. any other public agencies the County considers necessary to determine whether there are adequate facilities to accommodate the proposed subdivision including, but not limited to, fire district, school district, solid waste authority, etc.
- 4.2.2 Plat Transmittal. Requests for opinions and review for a preliminary plat for Type-three with five or fewer parcels and Type-five subdivisions may be required in the County Manager's sole discretion.
- 4.2.3 Agency Response. The state and local agencies shall have thirty (30) days from their receipt of the preliminary plat to review and return an opinion regarding the preliminary plat. The County Manager shall obtain receipts or other proof showing the date the opinion request was received by each state or local agency. Any adverse agency response should detail all deficiencies.
- 4.2.4 Hearing Deadlines. Upon return of the opinions of all five agencies, the preliminary plat shall be placed on the agenda of the Commission. The Commission may require additional information be submitted before a final decision or recommendation is made by the Commission.

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

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

- 4.2.5 Adverse Opinion. If any opinion from a public agency is adverse, the County Manager shall forward a copy of the adverse opinion to the subdivider and request that additional information be provided to the County within thirty (30) days to respond to the concerns of the appropriate agency. The County Manager shall forward such additional information upon receipt to the appropriate agency, which shall have thirty (30) days after the date the subdivider submits the additional information in order to revise its opinion. The County Manager shall obtain receipts or other proof showing the date the additional information was received by each state or local agency.
- 4.2.6 Revised Opinion. The County shall schedule a public hearing for consideration and action within thirty (30) days after the receipt of a revised opinion from the appropriate agency. If the County does not receive a revised opinion within the specified thirty (30) days after the date the subdivider submits the additional information, it shall proceed with the required public hearing.

4.2.7 Onsite Inspection. Prior to formal action by the Commission, a delegation of Planning members will make an onsite inspection and report on this inspection to the full board.

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

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

4.2.8 Commission Conclusions in Writing. Upon completion of the review by the Commission of the preliminary plat, the Commission shall write up its conclusions and submit them to the Lincoln County Board of Commissioners. The Commission shall detail its recommendations and objections.

Section 4.3 Public Hearing on Preliminary Plats

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

4.3.2 Notice. The notice of public hearing shall be published in a newspaper of general circulation in the County and shall contain the following information:

- A. subject of the hearing;
- B. time and place of the hearing;
- C. manner for interested persons to present their views; and
- D. place and manner for interested persons to get copies of any favorable or adverse opinion and of the subdivider's proposal.

4.3.3 Notification. Copies of the notice of public hearing shall be transmitted to the following:

- A. the subdivider filing the application for preliminary plat approval;
- 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 for such purpose; and
- D. owners of property contiguous to land proposed to be subdivided.

- 4.3.4 Participation/Record. 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 Manager 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. Before the expiration date of the approved or conditionally approved preliminary plat, the subdivider may submit to the Board of County Commissioners an application for extension of the preliminary plat for a period of time not exceeding thirty-six (36) months.
- 4.4.4 Expiration effect. The expiration of the approved or conditionally approved preliminary plat shall terminate all proceedings on the subdivision, and no final plat shall be filed without first processing a new preliminary plat.

Section 4.5 Disclosure Statement

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

ARTICLE 5 PLAT DATA REQUIREMENTS

Section 5.1 Requirements the Same for Preliminary and Final Plats

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

Section 5.2 Plat Format

The original drawing of the preliminary plat shall be in black ink, on tracing cloth or drafting film such as "mylar" or acetate. Sheets shall be twenty-four inches (24") wide and thirty-six inches (36") long, one-half (½) inch wide borders drawn at a scale of one inch (1") to two hundred feet (200'). The external boundary of the tract shall be drawn in red ink. If the plat is drawn on more than two (2) sheets, they shall be accompanied by an index sheet of the same size showing the entire subdivision. Fourteen (14) blue-line or black line copies and all supporting documents shall be submitted with the application for consideration of the preliminary plat.

Section 5.3 Plat Content

The preliminary and final plat shall show and be accompanied by the following information:

- A. permanent survey markers conforming to engineering standards, or descriptions and "ties" to such survey markers to which all dimensions, angles, bearings and similar data shall be referred;
- B. tract boundary line, rights-of-way of streets, easements, and other sites, with accurate dimensions, bearings or deflection angles and radii, arcs and central angles of all curves;
- C. name and width of each street or other right-of-way and center lines of street rights-of-way with dimensions between intersection centerlines or tract boundary lines; location dimensions and purposes of any easements;
- D. street names may be modified or changed by vote of the Commission. Corrections must be reflected on the final plat;
- E. location, dimensions and purposes for which public sites, if any, are to be dedicated or reserved;
- F. number to identify each block and each site, or lot, block, and unit. Block numbers shall appear within a circle;

- G. minimum building setback line on all lots and other sites, if such is required by the Planning Commission;
- H. name of record land owners of adjoining unplatted land;
- I. copies of all covenants, deeds or homeowners association by laws for development and maintenance of subdivision;
- J. the preliminary plat will meet all the requirements of a final disclosure as required by the New Mexico Subdivision Act and this Ordinance (Copy of disclosure statements signed by the subdivider must be attached.);
- K. the preliminary plat shall carry a reference to the subdivision restrictions and disclosure statement as recorded with the County Clerk;
- L. reference to recorded subdivision plats of adjoining platted land by record name and date;
- M. certification of a licensed land surveyor, who shall be licensed in accordance with the laws of the State of New Mexico certifying to the accuracy of survey and plat, and that the same has been prepared by him;
- N. certification of title showing that the subdivider is the rightful owner of the land, and that the subdivision as it appears on the plat is with the free consent and in accordance with the desires of subdivider, which certification shall be signed by the subdivider;
- O. the plat shall contain a Planning and Platting affidavit stating the proposed subdivision does or does not lie within the planning or platting jurisdiction of any municipality;
- P. signed statement by the subdivider dedicating streets and other rights-of-way, granting easements for public use, dedicating any sites for public use, and agreeing to build all roads within the subdivision in full conformance with the requirements of the County Subdivision Ordinance and the County road construction standards;
- Q. title, scale, true north arrows, and date;
- R. certification of approval of street names by the County Rural Addressor;
- S. certification for approval by the Planning Commission;
- T. certification of approval and notarization by the appropriate utility company executive officer;
- U. the plat shall contain the following statement as part of the approval of the Lincoln County Board of Commissioners. This approval of said plat becomes null and void if not filed in the Office of the County Clerk within one (1) year of the approval date;

- V. certificate of acceptance by the Lincoln County Board of Commissioners of the dedications of streets and other rights-of-way, and dedication of any sites for public use;
- W. required dimensions shall be shown to the nearest one-hundredth of a foot and angles to the nearest one-half minute for lot sizes;
- X. all signatures shall be written with black ink;
- Y. 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;
- Z. a certificate by the Lincoln County Board of Commissioners or their designated representatives certifying that the subdivider has complied with one of the following:
 - 1. all improvements have been installed in accordance with the requirements of this Ordinance;
 - 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;

- AA. soils:
 - 1. the results of the soil survey for subdivision Types-one and -two and others as may be required shall be described on maps or overlay maps at a scale of 1" equal 200 feet or the same scale permitted for the subdivision base map;
 - 2. soil limitations for proposed uses. The subdivider shall provide adequate information which shows the intended construction or development and land use to be appropriate to and feasible in the soil tested or intended to be used. Soil not suitable or having a high degree of hazard for the intended use shall not be developed for the intended use unless the subdivider can substantially prove that the inherent soil limitations can be overcome by engineering design. Soil suitability will be ascertained from soil survey engineering interpretations; (See: Terrain Management - Article 16)

- BB. submitted with the preliminary plat shall be one (1) set of computer printouts showing the mathematical boundaries and acreages of:

1. the subdivision boundary;
 2. each lot in the subdivision;
- CC. Road Construction Plan. Accompanying the preliminary plat and in format similar to it, will be a 24" x 36" reproducible drawing. It shall give the following information:
1. name and width of each street and associated rights-of-way;
 2. centerlines of street rights-of-way with dimensions between intersections centerlines or tract boundary lines;
 3. locations, dimensions, and purposes of any easements;
 4. longitudinal and transverse slopes;
 5. typical sections including width, thickness, material composition, and compaction requirements of all drainage structures;
 6. material specifics, invert elevations, sizes, slopes, and drainage channel requirements of all drainage structures;
 7. identification, location, and miscellaneous particulars of all utilities to be located within the rights-of-way;
 8. obstruction clearing widths;
 9. existing and proposed contours;
 10. adequate curve data to allow construction as intended; and
 11. survey markers and ties.

The review of the preliminary plat shall include a review of the Road Construction Plan and related backup.

5.3.1 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.

5.3.2 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.

5.3.3 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.

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

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

5.3.6 Environment Department Approval

For any subdivision requiring construction of a public water supply system or a community liquid waste system, documentation of approval from the New Mexico Environment Department shall be required for final plat approval.

5.3.7 Recording.

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

ARTICLE 6 FINAL PLAT REVIEW PROCESS

Section 6.1 Conformity

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

Section 6.2 Final Plat Submittal

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

Section 6.3 Decision on Final Plat

- 6.3.1 Action. Final plats submitted to the County for approval shall be approved or disapproved by the Board of County Commissioners at a public meeting within thirty (30) days after the date the final plat is deemed complete.
- 6.3.2 Denial. The Board of County Commissioners shall not deny a final plat if it has previously approved a preliminary plat for the proposed subdivision and it finds that the final plat is in substantial compliance with the previously approved preliminary plat. Denial of a final plat shall be accompanied by a finding identifying the requirements that have not been met.
- 6.3.3 Improvement agreement. If, at the time of approval of the final plat, any public improvements have not been completed by the subdivider as required by this Ordinance the Board of County Commissioners shall, as a condition preceding approval of the final plat, require the subdivider to enter into an agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the subdivider's expense.
- 6.3.4 Failure to act. If the Board of County Commissioners does not act upon a final plat within the required period of time, the subdivider shall give the Board of County Commissioners written notice of its failure to act. If the Board of County Commissioners fails to approve or reject the final plat within thirty (30) days after that notice, the Board of County Commissioners shall, upon demand by the subdivider, issue a certificate that the final plat has been approved.

Section 6.4 Advertising Standards

- 6.4.1 Brochures, disclosure statements, publications and advertising of any form relating to subdivided land shall:
- A. not misrepresent or contain false or misleading statements of fact;
 - B. not describe deeds, title insurance or other items included in a transaction as "free" and shall not state that any parcel is "free" or given as an "award" or "prize" if any consideration is required for any reason;

- C. not describe parcels available for "closing costs only" or similar terms unless all such costs are accurately and completely itemized or when additional parcels must be purchased at a higher price;
 - D. not include an asterisk or other reference symbol as a means of contradicting or substantially changing any statement;
 - E. if subdivision illustrations are used, accurately portray the subdivision in its present state, and if illustrations are used portraying points of interest outside the subdivision, state the actual road miles from the subdivision;
 - F. not contain artists' conceptions of the subdivision or any facilities within it unless clearly described as such, and shall not contain maps unless accurately drawn to scale;
 - G. not contain references to any facilities, points of interest or municipalities located outside the subdivision unless the distances from the subdivision are stated in the advertisement in actual road miles; and
 - H. refer to where the subdivider's disclosure statement may be obtained.
- 6.4.2 Copies of all brochures, publications and advertising relating to subdivided land shall be filed with the Lincoln County Board of Commissioners and with the Attorney General, within fifteen days after initial use by the subdivider.

Section 6.5 Requirements Prior to Sale, Lease or Other Conveyance

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 metal stakes in the ground and a reference stake shall be placed beside one corner of each parcel.

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.

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.

Section 6.7 Water Permits

6.7.1 Before July 1, 1997

Until July 1, 1997, the Board of County Commissioners shall not approve a final plat for a subdivision containing twenty (20) or more parcels, any one of which is two (2) acres or less, unless there is a State Engineer permit for subdivision water use issued according to:

- §72-5-1: New appropriations of surface water
- §72-5-23: Changes in place of use
- §72-5-24: Changes in purpose of use or point of diversion
- §72-12-3: New appropriations of ground water
- §72-12-7: Changes in purpose of use or location of well

In acting on the permit application, the State Engineer shall determine whether the amount of water is sufficient in quantity to fulfill the maximum water requirements for the subdivision.

6.7.2 Upon and After the Effective Date of this Ordinance

Upon and after the effective date of this Ordinance, the Board of County Commissioners shall not approve a final plat for a subdivision containing twenty-five (25) or more parcels, any one of which is less than five (5) acres, unless there is a State Engineer Permit for subdivision water use issued by the State Engineer.

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:

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

B. All Type-five subdivisions.

7.1.2 Conference required

A pre-application conference is required before application for summary review and approval. The pre-application process is described in Article 3 of this Ordinance.

7.1.3 Application/fees

A subdivider shall prepare a summary review plat and supporting documentation in accordance with the requirements provided in this Ordinance. The summary review plat shall be considered as a final plat suitable for filing with the County Clerk. Summary review plat submittal is initiated by completing an application on the prescribed form obtainable from the County Manager, and upon payment of the required administrative fees.

7.1.4 Plat deemed complete

On receipt of the application, fees, summary review plat, and supporting documentation, the County Manager shall review all materials in order to determine if the preliminary plat is ready to begin the review process. If there are no deficiencies, the summary review plat will be deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. If the summary review plat is incomplete or does not comply with the submittal requirements, the subdivider shall be notified and given a maximum time period of thirty (30) days to correct the deficiencies and return the summary review plat for consideration.

7.1.5 Public meeting

Summary review plats submitted to the County for approval shall be approved or disapproved by the Lincoln County Commission at a public meeting within thirty (30) days of the date the summary review plat is deemed complete.

7.1.6 Improvement agreement

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

7.1.7 Failure to act

If the County Manager and/or Planning Manager does not act upon a summary review plat within the required period of time, the subdivider shall give the Board of County Commissioners written notice of the County's failure to act. If the Board of County Commissioners fails to approve or reject the summary review plat within thirty (30) days after such notice, the Board of County Commissioners shall, upon demand by the subdivider, issue a certificate that the summary review plat has been approved.

Section 7.2 Summary Review Data Requirements

7.2.1 Filing Specifications

The original drawing of the summary review plat shall be submitted in waterproof ink on mylar or acetate or other durable material suitable for reproducing copies. Summary review plat maps shall be drawn at a scale of two hundred (200') feet to one (1") inch or larger and printed on sheets no larger than twenty-four by thirty-six inches (24" x 36"). The subdivider shall also submit two paper copies of the summary review plat map and accompanying information.

7.2.2 Map specifications

The summary review plat map shall include the following information:

- A. title, scale, north arrow, and date;
- B. name and mailing address of subdivider and designated agent, if any;
- C. names of owners of land to be subdivided and of contiguous property;
- D. subdivision boundary lines, easement and right-of-way lines, and property lines of all lots, with accurate dimensions, and ties to monuments;
- E. acreage measurements and identification numbers for each lot;
- F. location, dimensions, and purpose of all easements;
- G. delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency;
- H. the certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey; and
- I. legal description indicating the range, township, and section within which the subdivision is located.

7.2.3 Affidavit

The summary review plat shall contain a statement that the land being subdivided will be subdivided in accordance with the summary review plat. The summary review plat shall be acknowledged by the owner and subdivider, or authorized agents, in the manner required for the acknowledgment of deeds. Every summary review plat submitted to the County Clerk as a final plat shall be accompanied by an affidavit of the owner and subdivider, or authorized agents, stating whether the proposed subdivision lies within the subdivision jurisdiction of the County. A copy of the summary review plat shall be provided to every purchaser, lessee, or other person acquiring an interest in the subdivided land prior to sale, lease or other conveyance.

7.2.4 Dedication

The summary review 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. Upon full conformity with County road construction standards, the roads may be accepted for maintenance by the County. Acceptance of offers of dedication on a summary review plat shall not be effective until the summary review 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.

7.2.5 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.

7.2.6 Land Sales Act

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

7.2.7 Advertising standards

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

ARTICLE 8 SPECIAL PROCEDURES

Section 8.1 Succeeding Subdivisions

8.1.1 Standards

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

- A. a part of a previous subdivision that has been created in the preceding seven (7) year period;
or
- B. any land retained by a subdivider after creating a previous subdivision if the previous subdivision was created in the preceding seven (7) year period.

- C. No lot split or replat of a previously approved subdivision which increases the number of parcels shall be allowed within seven (7) years of the filing of the previously approved subdivision.

Section 8.2 Replat

8.2.1 Definition

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

8.2.2 Procedure

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

Section 8.3 Vacation of Plats

8.3.1 Cause

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

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

8.3.2 Request for vacation

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

8.3.3 Review period

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

- A. action shall be taken at a public meeting;
- B. at least fifteen (15) days before the proposed meeting, all owners of record of property within the subdivided land to be vacated and all owners of record of property contiguous to the subdivided land to be vacated shall have been notified by mail of the proposed vacation and the

date, time and place of the public meeting at which the vacation will be considered by the Board of County Commissioners;

- C. relevant utilities and other agencies have been notified.

8.3.4 Action

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

8.3.5 Filing

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

8.3.6 Utility Rights

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

Section 8.4 Variances

8.4.1 Cause

The Planning Commission and Lincoln County Board of Commissioners may grant a variance to this Ordinance provided however, the variance in question is not more than a minimum easing of the regulations. Under no circumstance shall a variance be granted that significantly conflicts with or nullifies the objectives, spirit and intent of this Ordinance.

8.4.2 Conditions and limitations

A variance shall not be granted which will cause the County to absorb costs over and above those typically associated with subdivision approval. In granting variances, the Lincoln County Commission may require such conditions as will:

- A. substantially secure the objectives of the standards of this Ordinance; and
- B. not adversely affect the health, safety, and general welfare of the public, if otherwise consistent with the general purpose and intent of this Ordinance and if not injurious or

detrimental to the surrounding area.

8.4.3 Procedures

The following procedures and requirements shall apply to all requests for variances under this Ordinance:

- A. Requests for variances shall be submitted in writing prior to or at the time of request for preliminary plat approval on the prescribed form available from the County Manager for that purpose, and upon payment of the required administrative fee.
- B. Variance requests shall be reviewed by the Lincoln County Commission in public hearings at the same time public hearings are held for approval of the preliminary plat.
- C. Notice of the request for variance shall be given in the same manner as notice is provided for any public hearing required in this Ordinance and shall comply with the requirements of the Open Meetings Act of the State of New Mexico.
- D. Variance requests shall be submitted to the state or other reviewing agency having expertise in the subject matter for which the variance is sought, and shall be governed by the same time limits.
- E. The Lincoln County Commission shall make written findings of fact regarding each of the requirements of this Ordinance and shall produce those findings of facts as a portion of its decision and order on each request for variance.
- F. The decision and order shall be prepared, signed and filed within five (5) working days after the public hearing at which the variance is considered.

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 Manager before making the land division for which the claim of exemption is made.
- B. The Lincoln County Manager 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 Manager.

- C. If the Claim of Exemption is approved, or if the County Manager 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 Manager, and the plat shall be filed for 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.

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 and 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 following non-refundable fees shall be paid by certified check to the County at the time of submitting the plat for approval:

- A. There shall be no basic fee for subdivisions approved through summary procedure or for

Article 9, sections F, G, and H.

- B. A basic fee of three hundred dollars (\$300.00)
- C. The basic fee shall be increased by the following amounts depending upon the number of parcels within the subdivision and the number of acres in the smallest parcel:

NUMBER OF PARCELS IN SUBDIVISION	NUMBER OF ACRES IN SMALLEST PARCEL	AMOUNT IN ADDITION TO BASIC FEE
2-24	more than 10 acres	\$100.00
	less than 10 acres	\$100.00
25-50	more than 10 acres	\$500.00
	less than 10 acres	\$600.00
51-74	more than 10 acres	\$700.00
	less than 10 acres	\$800.00
75-99	more than 10 acres	\$900.00
	less than 10 acres	\$1000.00
100-199		\$1200.00
200-299		\$1400.00
300-399		\$1600.00
400-499		\$1800.00
500 or greater		\$2000.00

- D. Where additional review by the County is required above and beyond normal review requirements due to complex unforeseen, or unique circumstances relating to the proposed plan or plat, such as complex hydrological considerations, then the County may charge an additional review fee to defray the cost of such review. Review fees shall be only for professional services rendered to the County in the case that the County does not have qualified personnel to assist in reviewing such reports, plans or plats.
- E. There shall be a fee of five thousand dollars (\$5,000) to be paid by any developer or subdivider who chooses to utilize paved or chip-sealed roads which are intended to become public roads. This fee shall be used to pay for the County's hiring of inspectors to inspect all phases of road construction. Any fees that remain after final inspection of all road construction shall be returned to the developer.

- F. Lot Line Boundary Adjustment Summary procedure fee of one hundred dollars (\$100).
- G. Vacation of Plat fee of one hundred dollars (\$100).
- H. Claim of Exemption fee of twenty-five dollars (\$25).

ARTICLE 10 APPEALS

Section 10.1 Who May Appeal

10.1.1 Lincoln County Planning Commission

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

10.1.2 Board of County Commissioners

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

Section 10.2 Appeal Process

10.2.1 Nature of Review

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

- a. arbitrary, capricious or an abuse of discretion; or
- b. not supported by substantial evidence; or
- c. otherwise not in accordance with law.

10.2.2 Standing

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

10.2.3 Notice of Appeal

The appeal shall be perfected by filing a written notice of appeal which sets forth the specific portion or portions of the decision being appealed. A copy of the decision or order being appealed shall be attached to

the notice of appeal. The appeal shall be perfected upon filing of the notice required by this Ordinance and payment of the required administrative fee.

ARTICLE 11 ENFORCEMENTS, PENALTIES AND REMEDIES

Section 11.1 Investigation of Alleged Violations

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

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:
 - 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.

Section 12.2 Street Layout

The proposed layout shall be made according to sound land planning practice for the type of development proposed, and shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation of appropriate projections of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding acreage tracts.

Section 12.3 Half Streets Prohibited

The dedication of half streets at the perimeter of a new subdivision is prohibited. If circumstances render the dedication of full street rights-of-way impracticable, then adequate provision must be assured by the subdivider, that where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed developer.

Where land is subdivided into extra large tracts where the potential for future subdivision exists, such tract shall be arranged so as to allow for the provision of future streets and a logical further re-subdivision pattern.

Section 12.4 Adjacent Highway

Where a proposed subdivision contains lots abutting or adjacent to a major highway, it may be planned so as to avoid having lots fronting on a highway. The subdivision shall be laid out to have a minimum number of intersections with highways. The "sight distance" at any intersection must provide for adequate "stopping distance." Where the subdivision contains, or is adjacent to a state or federal highway, the subdivider must satisfy the New Mexico Department of Transportation as to the permit required to connect.

Section 12.5 Scenic Corridors

Along County, State, or Federal designated scenic corridors, a "greenbelt" or "scenic easement" of a width deemed appropriate by the Planning Commission or the Board of County Commissioners shall be reserved from development.

Section 12.6 Private Roads

Private roads in all subdivisions are required to be built to County standards. All private roads will be allowed in subdivisions if built to County standards and only if an accepted means of guaranteed maintenance by lot or tract owners is presented to and accepted by the County Commission. Designation of private roads will be noted on the Disclosure Statement and deeds. In addition, the driving surface on private roads shall not be less than twenty-feet (20') in width and shall otherwise be built to County standards. Performance Bonds will be required on all subdivisions containing private roads.

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 twelve percent (12%) and desirable less than eight percent (8%).

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.

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 eighteen (18) 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 unconveyed portions of a subdivider's plat if a subdivider does not complete construction of roads within eighteen (18) months of final approval of the subdivision. Extensions may be applied for and may be granted by the County in the County's sole discretion.
- I. An as-built set of road plans shall be submitted to the County Planner upon completion of the road and prior to the County's final inspection of the road.
- J. The developer, upon completion of the project, shall schedule a final inspection with the County Road Manager, the County Manager, and the Chairman or his designee. A copy of

the inspection shall be made a part of the next Commission meeting agenda.

Section 12.9 Removal of Cleared Vegetation

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

Section 12.10 Curve Radii and Super Elevation

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

A tangent of a least one hundred feet (100') long shall be provided between horizontal curves.

Section 12.11 Intersections

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

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

Section 12.12 Cul-de-Sacs

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

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

Section 12.13 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 seventy feet (70').

Section 12.14 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.

Section 12.15 Lots

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

Every lot shall have egress and ingress to a public thoroughfare and shall be permanently marked with metal stakes at each corner of the lot and identifying metal stake at one corner.

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

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

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

Section 12.16 Easements and Rights-of-Way

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

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

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

When a subdivision is traversed by a water course, drainage way, channel or storm drainage, the plat must provide a rights-of-way for flood control measures conforming with the lines and flood way of such watercourse.

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

Section 12.17 Buffer Strips

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

Section 12.18 Parking

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

Section 12.19 Road Dedication

All roads shown on the final plat and intended for public use shall be dedicated to the County for such use. The subdivider shall construct the roads so intended according to the design standards, specifications, and relative stipulations of this Ordinance and the approved Road Construction Plan. Any changes to the approved Road Construction Plan shall require County concurrence. At least seven (7) days prior to any road construction activities, the subdivider shall submit to the County a written schedule for the accomplishment of the proposed work. The subdivider shall provide at least two (2) days notice of any changes in the schedule. Dedication of any road rights-of-way or easement in no way relieves the subdivider of any duties or obligations to construct proposed dedicated roads. Further, such dedication in no way indicates the County's acceptance of a road.

Section 12.20 Preliminary Road Acceptance

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

Section 12.21 Final Road Acceptance

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

Ninety (90) days prior to the end of the test wear period, the subdivider may apply to the County Road

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

Section 12.22 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.
- 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. Inlet and outlet channel protection shall be constructed where water velocities exceed five feet (5') per second, except where the channel is in rock.
- C. Drainage structures shall be designed to carry the estimated runoff as follows:
 - 1. Drainage areas less than ten (10) acres - ten (10) year return period rainfall.
 - 2. Structures under arterial and major access roads - fifty (50) year return period rainfall (a two percent (2%) chance of occurrence storm in one (1) year).
- D. Drainage culverts 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.
 - 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.

Section 12.23 Road Requirements

- A. The roadways shall be designed to carry the projected traffic flows generated by the subdivision. The gravel roadways shall be a minimum of two driving lanes, twelve (12') feet wide, with a minimum two (2') foot shoulder each side. If approved, paved roads shall be a) a three-course asphaltic surface treatment, b) plant mix bituminous pavement or c) chip seal, as shown on the typical roadway section. A minimum 6" of I-B or II-B Base Course conforming Section 304 of N.M.S.H.T.D. Standard Specifications for Highway and Bridge Construction, 1994 Edition, shall be included for the typical section. Subgrade shall be scarified to a depth of 8", watered and compacted to 95% of minimum density as determined by AASHTO modified T-180. Roadways shall maintain a two percent (2%) crown at centerline or slope full road two percent (2%) to the inside on all curves and on sidehill cuts or fills over eight feet (8').
- B. Minimum typical roadway sections shall be shown on page 41.
- C. Typical street layout shall be shown on page 42.
- D. Minimum typical culvert installation shall be as shown on pages 43, 44, and 45.
- 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. (Page 40.)
- 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 12.24 Urban Residential Density

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.

COPY

COPY

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.
Plant Mix Bituminous Pavement	401	2" Minimum
Bituminous Surface Treatment (Penetration)	410	3 Course See Below

MULTICOURSE

§410

First $\frac{3}{4}$ "
Course-----

Aggregate 40-50 lbs/s.y.
Asphalt 0.30-0.50 gal/s.y.

Second e "
Course-----

Aggregate 20-50 lbs/s.y.
Asphalt 0.40-0.60 gal/s.y.

Third d "
Course-----

Aggregate 15-25 lbs/s.y.
Asphalt 0.30-0.50 gal/s.y.

Supplement to NMSHTD Specification 410

$\frac{3}{4}$ " aggregate gradation

100% passing $\frac{3}{4}$ " 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.

ARTICLE 13 REQUIRED IMPROVEMENTS

All subdivision boundary corners shall be marked with permanent monuments at that point or with offset marking. Corners shall be permanently marked with metal stakes in the ground, and a reference stake shall be placed beside one corner of each parcel.

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 two (2) acres or more in size may be approved if such systems meet the requirements of the Environment Department and State Engineer's Office.

Type-two: A community water system shall be required in any Type-two subdivision containing any lot less than five (5) acres in size. A community sewer system shall be required in any Type-two subdivision containing any lot less than one (1) acre in size. Individual domestic water systems for Type-two subdivisions, five (5) acres or more in size, and individual sewer systems for Type-two subdivisions one (1) acre or more in size, may be approved if such systems meet the requirements of the Environment Department and State Engineer's Office.

Type-three: A community water system shall be required in any Type-three subdivision containing twenty (20) or more parcels, any one of which is less than two (2) acres in size. Individual domestic water systems for Type-three subdivisions containing nineteen (19) or fewer parcels, or subdivisions containing twenty (20) or more parcels in which the minimum parcel size is two (2) acres or larger, may be approved if such systems meet the requirements of the Environment Department and State Engineer's Office. Any Type-three subdivision containing any parcel smaller than one (1) acre in size shall be required to provide for a community sewer system.

Types-four and -five: Individual domestic water systems for Types-four and -five subdivisions, and individual sewer systems for Types-four and -five subdivisions may be approved if such systems meet the requirements of the Environment Department and State Engineer's Office.

The water supply for all proposed uses, other than domestic, shall be provided by the subdivider in Types-one, two, three, four, and five subdivisions.

Lots within subdivisions approved without the requirement for a community water or sewer system, based on the restrictions set forth above, shall not be further subdivided so that any portion of a further subdivision results in a lot size of less than the restrictions set forth above, unless an approved community water and sewer system is provided for the entire subdivision. No variance from this restriction shall be granted. Notice of this restriction shall be included in the disclosure statement.

No lot split or resubdivision of a previously approved subdivision which increases the number of parcels shall be allowed within seven (7) years of the filing of the previously approved subdivision.

Utilities: All utilities shall be placed according to general practice in the area and in accordance with the

Lincoln County Excavation Ordinance. See: Utility Company.

Solid Waste Disposal: The subdivider must provide for suitable locations within the subdivision for locating waste containers for disposal of solid waste generated by residents of the subdivision.

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.

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

ARTICLE 14 DEVELOPMENT ON FLOODWAYS PROHIBITED

No development shall be approved on floodways. In the absence of a government approved flood study, the developer shall employ a qualified registered engineer to certify whether the property is in a floodway, flood fringe or flood plain.

ARTICLE 15 MOBILE HOMES

15.1 Each Mobile Home Subdivision shall meet all pertinent requirements for the subdivision classification (Types one through five) under which it is determined to fall. All design and construction shall be in conformance with the appropriate sections of the most recent versions of the Uniform Building Code and the National Fire Protection Association (NFPA) "Standard for Fire Safety Criteria for Mobile Home Installation Sites and Communities" and all documents referenced therein.

15.2 Additional Design Criteria:

- A. Internal collector streets shall be required. No direct access from lots to State, County or other arterial streets will be permitted.
- B. Multiple entrances to the subdivisions and through local streets should be provided in preference to cul-de-sacs.
- C. Driveways must conform to County permit standards
- D. Collector and local street speed shall be a maximum of ten (10) miles per hour. Speed limit and traffic control signs shall be required. Such signing will be installed at the expense of the subdivider.
- E. The street sections shall be constructed and maintained for the full width of the obstacle free area as shown on Pages 41, 42, 43, 44, and 45.
- F. The corner sight distance at the intersection of all local streets within the subdivision shall be

a minimum of ninety feet (90'). Corner sight distances at the intersections between subdivision streets and those with speed limits in excess of ten (10) miles per hour will be based on proper engineering interpretations.

- G. The inside edge of street radii at all intersections shall be a minimum of thirty feet (30').
- H. Mobile homes shall not be stacked vertically over each other, in whole or in part unless the structures involved are specifically designed and authorized for such purposes by the manufacturer, and the design and installation are approved by a Registered Engineer in the State of New Mexico. All responsibilities and costs for securing such approvals shall be borne by the subdivider.
- I. No portion of a mobile home, including attached structures and excluding the tongue, shall be located closer than twenty feet (20') side to side, twenty feet (20') end to side, or fifteen feet (15') end to end horizontally to any other mobile home unless the exposed composite walls and roof of either structure are without openings and also constructed of material which will provide a one (1) hour fire-rating or the structures are separated by a one (1) hour fire-rated barrier.
- J. For each dwelling located thereon, each lot shall be provided with enough space to park at least two (2) motorized vehicles off street. The minimum dimensions of the parking area per vehicle accommodation capability shall be twenty feet (20') by ten feet (10').
- K. Each lot within the subdivision shall be sized to accommodate the largest mobile home, including accessories, whether attached or not, that will be located on it, plus utilities and all required parking, separation, clear, safety, and other areas. Mobile homes including accessories, whether attached or not, will not be permitted on lots which have not been sized to properly and/or safely accommodate them. In the Restriction Section of the Disclosure Statement, the subdivider shall detail any size, accessory or other limitation on a lot, block or subdivision basis.

15.3 In the application of criteria effecting mobile homes, the most stringent shall govern. The County reserves the right to make final decisions on any conflicting situations.

ARTICLE 16 TERRAIN MANAGEMENT PLAN

Section 16.1 Terrain Management Plan (Required for preliminary and final plat)

Any subdivider seeking approval of a preliminary and final plat must submit a Terrain Management Plan along with the required information. No preliminary or final subdivision plat shall be considered by the Commission unless the Terrain Management Plan is complete and accompanies the preliminary and final plat. The Commission will approve a Terrain Management Plan if it determines that:

- A. the Terrain Management Plan realistically and adequately provides for the long range

protection to the area to be subdivided;

- B. it minimizes erosion and deterioration of the natural features of the subdivision; and
- C. the Terrain Management Plan has been reviewed by the local Soil and Water Conservation District. (The Terrain Management Plan is submitted by the subdivider to the County Manager, who in turn obtains the review of the Soil and Water Conservation District.)

Section 16.2 Maps Required

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

- A. Vicinity map drawn to a scale of not less than two thousand feet (2,000') to one inch (1") showing contours at fifty feet (50') intervals, the relationship of the site to its general surroundings, and the location of all existing drainage channels, water and erosion control structures, water courses, and water bodies within three (3) miles of the subdivision.
- B. Subdivision base map drawn at a scale which clearly shows the boundaries of the area to be subdivided.
- C. Contours overlay of the subdivision Type-one and Type-two and other intervals which clearly indicate the slopes and grades. Indicate on this map all drainage channels, watercourses, and water bodies.
- D. A soil survey overlay showing the various soil types drawn to the scale of the subdivision map for all Types subdivisions. The soil survey overlay will show the location of each soil type and the principal vegetation characteristics on the subdivision including major rock outcroppings, slopes over eight percent (8%) and wooded areas, grasslands, forests, the location of all areas the subdivider intends to revegetate and all areas where the vegetation will be preserved.
- E. A Flood Plains Overlay indicating the floodways, flood fringes and flood plains.

Section 16.3 Surface Drainage Plan

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

All appropriate design details necessary to clearly explain the construction of all necessary water control structures.

Section 16.4 Subsurface Drainage Plan

Showing all appropriate design details necessary to clearly explain the construction of all subsurface structures.

Section 16.5 Storm Drainage Plan

The subdivider shall substantially prove that all storm drainage systems shall be adequate for two (2) percent chance of occurrence of a flood.

Section 16.6 Cut and Fill Slope Grading

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

Section 16.7 Soils

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

Section 16.8 Grading

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

- A. sediment and other organic or earthen materials discharged into watercourse, water body, drainage channel or flood plain;
- B. material placed in any position which would make it susceptible to erosion and deposition into a watercourse, water body, drainage channel or flood plain;

all grading and filling operations shall proceed according to a schedule. The schedule shall limit to the shortest possible period the time that soil is exposed and unprotected; and

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

Section 16.9 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.

Section 16.10 Floodway, Flood Plain, and Flood Fringe Management

In approving a subdivider's plat, the Planning Commission may, as a condition of approval, require fills, dikes, levies or other diversion measures.

Section 16.11 Storm Drainage Plan

- A. Storm drainage computations of the estimated run-off from the subdivision following completion of development.
- B. Quantities of water carried by major drainage courses and proposed treatment of major drainage courses.
- C. The location, type and size of proposed drainage and erosion control structure.
- D. The location of major drainage and water course easements.

Section 16.12 Lot Design

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.

ARTICLE 17 WATER AVAILABILITY PLAN

Section 17.1 New Mexico Water Law

Under NMSA 1978, §72-12-1, it is the State Engineer's policy to grant a domestic permit only to the person who, in good faith, intends to use the water for household or other domestic purpose. The permit is limited to a diversion of three (3) acre-feet per annum which may not be used to irrigate more than one (1) acre of noncommercial trees, lawn or garden and household or other domestic use. If more than one (1) household use per well is proposed, then no more than one (1) acre of noncommercial trees, lawn or garden may be irrigated from the well and the total withdrawal from the well shall be metered and limited to three (3) acre-feet per year for all uses. In the event two (2) or more wells obtained under provisions of Section 72-12-1 are tied into the same distribution system, the total withdrawals shall be limited to three (3) acre-feet per annum from any well or group of wells that supply a common system, it will be necessary for the subdivider or users to obtain water rights.

Section 17.2 Submission of Water Availability Plans

Any person seeking approval of a subdivision plat must submit a water availability plan for either a community water system or individual wells.

The subdivider must provide stored water for fire protection prior to construction for fire flow which shall not be less than 3,000 gallons.

The subdivider shall provide information showing the fire flow the proposed water supply systems can deliver throughout the subdivision in gallons per minute and the time duration such flow can be maintained.

The subdivider shall provide the following documentation where applicable:

- A. If the subdivider proposes that a utility certified by the Public Service Commission provide water, the subdivider shall provide documentation that the subdivision is located within the service area of the utility or that the utility is ready, willing and able to provide water to the subdivision.
- B. If the subdivider proposes that a municipality, private utility company, or any other private party provide water, the subdivider shall provide documentation that the municipality, company, or party is ready, willing and able to provide water to the subdivision. The documentation shall contain a statement from the municipality, company or party indicating the quantity of water available to the subdivider and any conditions or limitations pertaining to the use of water.

Section 17.3 Community Water System

The subdivider shall provide water from existing or proposed water supply systems for domestic use, fire protection and any other use that the subdivider proposes.

The subdivider 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 approved by the County Commissioners.

The provisions for fire flow shall be in accordance with the guidelines of the Insurance Services Office and good engineering practice.

The subdivider shall assure the availability of sufficient potable water for the fully developed subdivision.

Section 17.4 Requirements For Community Water System

The following shall be prepared by or under the supervision of a registered professional engineer and shall be adequate for the purpose of Section 17.3 above:

- A. Plans and specifications for diversion, storage and distribution facilities, and a time schedule for their completion;
- B. Information showing the volume and peak rate of production of water required in each month to supply each use at full development of the subdivision;
- C. A geohydrologic report, if part or all of the supply is to be obtained from ground-water sources, containing the following information:
 - 1. Geologic maps, cross-sections and descriptions of the aquifer systems proposed for production, including information concerning the hydrogeologic boundaries, intake areas and locations of discharge of the aquifers;

2. 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;
3. 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 at rates sufficient to meet the demands under full development of the subdivision. This information shall be based on pump-test analysis, hydrogeologic boundaries, aquifer leakage and historic water-level changes, logs and yields of existing wells and when the Planning Commission deems necessary, test wells and aquifer performance tests.

This information will give consideration to mutual interference of the proposed wells, and the interference of existing wells;

4. A forty (40) year schedule of the effects of the projected water withdrawals for the subdivision water levels and natural discharge; and
5. The water quality analysis shall conform to New Mexico State standards; and

D. A hydrologic report, if part or all of the supply is to be obtained from surface-water sources, containing the following information:

1. Source of water supply;
2. Drainage area above the point of diversion;
3. Analysis of relevant historical runoff records;
4. Projected water supply available for the subdivision requirement.

Section 17.5 Requirements for Individual Water System

Domestic water supply may be provided by the subdivider or by the purchaser or lessee of each parcel at his own expense.

If the water supply is to be provided by the subdivider, the regulations of Section 17.2 and Section 17.4 above shall apply.

If the water supply is to be provided by the owner or lessee of each parcel the regulations of Sections 17.4 C and 17.4 D shall apply to all subdivisions containing six (6) or more lots.

Section 17.6 Water Quality Test

Any person seeking approval of subdivision plat and proposing to provide for the use of a water supply system, must submit a water quality proposal to the Planning Commission.

Section 17.7 Water System Plan

A Class I water supply system may not be approved unless the water supply source will be located (for Community Water System):

- A. a safe distance from any contaminant source;
- B. at least two hundred feet (200') from a liquid waste disposal site of less than one thousand (1,000) gallons per day;

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- C. at least three feet (300') from a liquid waste disposal site of more than one thousand (1,000) gallons per day;
- D. at least one hundred-fifty feet (150') from wastewater lines which are not leakproof;
- E. at least twenty-five feet (25') from wastewater lines which are leakproof;
- F. at least seventy-five feet (75') from a perennial stream;
- G. at least one hundred feet (100') from other contamination sources such as landfills, stock yards and animal feed lots.

Section 17.8 Requirements for Class II Water Systems

Water sources must be (for Individual Water Systems):

- A. a safe distance from any contaminant source;
- B. at least one hundred feet (100') from a liquid waste disposal of less than one thousand (1,000) gallons per day;
- C. at least two hundred feet (200') from a liquid waste disposal of more than one thousand (1,000) gallons per day;
- D. at least seventy-five feet (75') from leakproof wastewater lines carrying less than one thousand (1,000) gallons per day;
- E. at least one hundred feet (100') from leakproof wastewater lines carrying more than one thousand (1,000) gallons per day;
- F. at least twenty-five feet (25') from leakproof wastewater lines;
- G. at least seventy-five feet (75') from perennial streams;
- H. at least seventy-five feet (75') from other contamination sources, such as landfills, stock yards and animal feed lots.

ARTICLE 18 WATER SUPPLY GUIDELINES

Section 18.1 Water Conservation Measures

The following water conservation measures are recommended for housing units in all subdivisions:

- A. All new construction shall conform to the requirements of the administrative Building and Plumbing Codes of the State of New Mexico.

- B. Low water use landscaping techniques applying the principles of xeriscaping are encouraged.

Section 18.2 Quantification of Annual Water Requirements

The following procedures shall be used to quantify the annual water requirements for all subdivisions:

- A. The annual water requirement for both indoor and outdoor purposes, for each parcel in a residential subdivision shall be **.25** acre-foot per year, unless a detailed water demand analysis approved by the Board of County Commissioners justifies the use of a different figure. A detailed water demand analysis shall be required in all subdivisions containing six (6) or more parcels.
- B. The subdivider may, at his/her option, prepare a detailed water demand analysis using the step-by-step computational procedure presented in the relevant State Engineer Technical Report.
- C. A detailed water demand analysis shall be prepared for all non-residential subdivisions and all water uses not directly related to residential uses within a mixed development subdivision. Annual water requirements shall be estimated using the relevant State Engineer's Technical Report.

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 Requirements for Community Liquid Waste System

Design and complete construction of the community system, by the time required in the approved plan, in compliance with all applicable Water Quality Control Commission Regulations in effect at the time of final plat approval.

Connection to the community system for the occupants within the subdivision in accordance with the requirements of the approved plan.

Provisions for the operation, maintenance and expansion of the community system to meet the growth in population of the subdivision in a manner consistent with the approved plan and consistent with all applicable Water Quality Control Commission Regulations in effect at the time of final plat approval.

If a subdivider must provide for a community liquid waste treatment system and does not qualify for the temporary use of individual liquid waste disposal systems under Subsection 19.4, he must meet the requirements stated above by the time of first occupancy within the subdivision.

Section 19.3 Information Requirements for Community Liquid Waste System

- A. A legal description of the location of all construction easements and rights-of-way necessary for the installation of the community liquid waste treatment system;
- B. Plans and specifications, prepared by a professional engineer registered in New Mexico, for the construction of the system;
- C. The time when the community system is to be completed;
- D. If the proposal is to connect to an existing community liquid waste system, plans and specifications for the liquid waste collection system within the subdivision and the connecting system, and a description of the existing system;
- E. The projected population of the subdivision based upon four (4) persons per household;
- F. A subdivision improvements agreement which guarantees:
 - 1. the construction and operation of any liquid waste treatment system required as shown in the final plat documents and plans;
 - 2. collateral in the form of a performance bond or other means to adequately assure the complete construction and operation of the system in accordance with design and time specifications.
 - 3. certification of the operator of the system;
 - 4. involvement as prescribed in the final plat documents of a Homeowners Association or Community Association.

Section 19.4 Requirements for Individual Liquid Waste Disposal Systems

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

- A. unless they are to be located so as not to potentially contaminate or pollute any drinking water supply, water course, or body of water;
- B. unless they are to be located so as not to potentially degrade any recreational resources;
- C. if they will create a nuisance;
- D. if they are to be located in areas where there is evidence that similar individual systems have caused significant ground-water contamination or high nutrient levels in any body of water;
or

- E. if they are to be located in areas where there is evidence that they will cause hazards to health or to the environment.
- F. the distance between a well and an absorption field or a tank used as part of an individual liquid waste disposal system must be no less than one hundred feet (100');
- G. the distance between a well or body of water used as a public water supply and an absorption field or tank used as part of an individual liquid waste disposal system must be no less than two hundred feet (200');
- H. the distance between an absorption field or tank used as a part of an individual liquid waste disposal system and the nearest boundary of a floodway must be no less than one hundred feet (100');
- I. privies may not be approved by the Planning Commission for use within a subdivision unless the subdivider demonstrates to the satisfaction of the Planning Commission, in consultation with the New Mexico Environment Department, that they will be located and operated in a manner which will not potentially contaminate any drinking water supply, potentially pollute any body of water, create a nuisance, or cause a potential danger to public health;
- J. if an existing community liquid waste system is available for use within the subdivision.

Section 19.5 Soil Limitations for Individual Liquid Waste Disposal Systems

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

Section 19.6 Minimum Lot Size for Individual Liquid Waste Disposal Systems

Individual liquid waste disposal systems may not be approved by the Planning Commission for use within a subdivision unless the parcels on which they will be used conform to the minimum lot sizes required in Table B.

Section 19.7 Submittals for Individual Liquid Waste Disposal Systems

- A. A copy of the subdivider's Disclosure Statement relating to liquid waste disposal;
- B. The location of all proposed and existing wells, sewage absorption areas, community sewage systems, and community water supply systems within the proposed subdivision and within three hundred feet (300') of the proposed subdivision boundary.
- C. The location of all arroyos, drainage areas and bodies of water within the proposed subdivision and within three hundred feet (300') of the proposed subdivision boundary.

- D. The soil depth throughout the area of the proposed subdivision.
- E. Soil classification, or percolation tests, or both.
- F. The depth to seasonal high water table.
- G. The slope of the ground within the proposed subdivision.
- H. The flood frequency of areas within the proposed subdivision.
- I. A detailed description of the kind of individual liquid waste disposal system that is to be used by the occupants of the subdivision.
- J. The projected population of the subdivision based upon four (4) persons per household.

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 reenacts the Lincoln County, New Mexico, Subdivision Ordinance 2001-12. 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).

TABLE A

TABLE A.1 -- SOIL CATEGORY FOR INDIVIDUAL LIQUID WASTE SYSTEMS			
Soil Characteristic	Soil Category (a)		
	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	Less than 4
Flood Plain	Outside	Outside	Within

Notes Table 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 can not be used in prohibitive soils.

TABLE A.2 – SETBACK DISTANCES FOR INDIVIDUAL LIQUID WASTE SYSTEMS		
Object	Required Minimum Setback Distance (feet)	
	Treatment Unit	Disposal System
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 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 B
COMBINATION OF WATER AND SEWER SYSTEMS **MINIMUM SIZES FOR HOMESITES (ACRES)**

SOIL CHARACTERISTICS	A Slight Limitations	B Slight Limitation	C Moderate Limitations	D Severe Limitations
Community Water Onsite Sewage Disposal	1 Acre	1 Acre	1 Acre	No Onsite Sewage Disposal Into Soil
Onsite Water Onsite Sewage Disposal	1 Acres	1 Acre	1.25 Acre	No Onsite Sewage Disposal Into Soil

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.

THIS ORDINANCE was adopted in a regular session the Board of County Commissioners of
Lincoln County, New Mexico, on 7th day of June, 2002.

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APPENDIX

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LINCOLN COUNTY, NEW MEXICO

SUBDIVISION ORDINANCE 2002-06

FORMS

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CLAIM OF EXEMPTION

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.

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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. 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 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 OF RECORD WITH THE COUNTY CLERK. ATTACH 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.**

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 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 PARCEL.**

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).**

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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. ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF PARCEL.**

13. ___ the sale, lease or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five (5) year period; provided that a second or subsequent sale, lease or other conveyance from the same tract of land within five (5) years of the first sale, lease or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act and these Regulations; provided further that a survey shall be filed with the county clerk indicating the five (5) year holding period for both the original tract and the newly created tract. **ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF ORIGINAL TRACT, PARCEL PROPOSED TO BE DIVIDED, ANY PARCELS PREVIOUSLY DIVIDED FROM THE ORIGINAL PARCEL AND DATES OF ALL DIVISIONS.**

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

Signature _____
Print your name here _____
Address _____
City, State and Zip code _____
Telephone number(s) _____

SUBSCRIBED AND SWORN to before me this ____ day of _____, _____.

NOTARY PUBLIC

My Commission Expires:

J J J J J J J J J J J

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

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.

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.

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)

COPY

COPY

COPY

(name of entity providing gas service, if available)
 (estimated cost)
 (name of entity providing water, if available)
 (estimated cost)
 (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 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)

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

(name and address of entity providing water)
(source of water and means of delivery)

COPY

COPY

COPY

(summary of any legal restrictions on either indoor or outdoor usage)
(statement that individual wells are prohibited, if such is the case)

10. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS (if applicable)

(state whether wells will be provided by the subdivider or by the prospective purchaser/lessee/conveyee)

(if wells are provided by purchaser/lessee/conveyee, state the estimated cost to complete a domestic well, including drilling, pressure tank, control devices, storage and treatment facilities)

(if wells are provided by the subdivider, state the cost, if any to the purchaser/lessee/conveyee)

(average depth to groundwater and the minimum and maximum well depths to be reasonably expected)

11. 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

12. SOLID WASTE DISPOSAL

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

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.

13. 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)

14. 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)

(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)

15. 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)

16. CONSTRUCTION GUARANTEES (if applicable)

(describe any proposed roads, drainage structures, water 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.

17. 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)

18. FIRE PROTECTION

(distance to nearest fire station from subdivision)

(route over which that distance is computed)

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

19. POLICE PROTECTION

List the various police units that patrol the subdivision.
(sheriff's department, if applicable)
(municipal police, if applicable)
(state police, if applicable)

20. 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)

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 attestor)

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:

COPY

COPY

COPY

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

COPY

Received by: _____ Date: _____

Address: _____

City: _____

State: _____ Zip Code: _____

COPY

COPY

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 of the State. It is informative only.

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.

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 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)

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 is recorded as having legal title)
(address)

NOTE: If any of the persons named above is a corporation, please set out here the name and addresses of all officers in the corporation.

J. NAME AND ADDRESS OF PERSON HAVING EQUITABLE TITLE

(name of person recorded as having equitable title)
(address)

NOTE: If any of the persons named above is a corporation, please set out here the names and addresses of all officers in the corporation.

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)

COPY

COPY

COPY

- 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.)

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)

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.)

W. WELLS

NOTE:

Prospective owners must provide their own wells:

(average, maximum and minimum depth to water in the subdivision if water is available only from subterranean sources)

(recommended total depth of well)

(estimated yield in gallons per minute of wells completed to recommended total depths)

(recommended pump settings and size)

(lithological characteristics of formations through which well is to be completed)

(not applicable if the subdivider intends to provide water for domestic use)

(comments on water quality)

X. SURFACE WATER

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

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)
(whether or not he 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)

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 the 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.) *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)
(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 in 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**
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)

(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)

(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 FLOODPLAIN 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 #1992-6. 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 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.

COPY

COPY

COPY

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 _____, _____.

COPY

(typed name of subdivision)

ATTEST:

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

(typed name of attestor)

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:

COPY

COPY

COPY

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

Received by: _____ Date: _____

Address: _____

City: _____

State: _____ Zip Code: _____

COPY

COPY

**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

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 _____

**COUNTY SUBDIVISION ORDINANCE
APPLICATION FOR FINAL 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.

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.
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 _____

COPY

COPY

COPY

**COUNTY SUBDIVISION ORDINANCE
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: _____

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 _____

COUNTY SUBDIVISION ORDINANCE APPLICATION FOR A VARIANCE

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. Name of Subdivision _____

4. Reason for Variance (brief description) _____

5. Attach a copy of the planned development program containing maps, schematics, and a narrative statement describing the full build-out of the proposed development.

PROCEDURAL INFORMATION (To be completed by County Staff)

6. Date application received by County _____ Signed _____

7. Date of public hearing _____

8. Date of variance approval by County _____

**COUNTY SUBDIVISION ORDINANCE
NOTICE OF APPEAL**

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 _____